

AN *B Na*
E S S A Y

ON THE
GREAT AFFINITY

AND

MUTUAL AGREEMENT *2d*

Of the Two PROFESSIONS of

Divinity and Law,

And on the joint Interests of

CHURCH and STATE.

In VINDICATION of the Cler-
gy's concerning themselves in Political
Matters. *k*

CONTAINING
REFLECTIONS

On some Popular Mistakes with Respect to
the Original of our Civil Constitution, and to
the Ancient *English* Loyalty.

In a LETTER from a Clergyman of the Church of
England to an Eminent Lawyer.

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T H E

P R E F A C E.

A Discourse of this Nature can not be unseasonable at a time, when so many of all Professions are more vers'd than ever in the Ancient English Language and Antiquities; which has brought a kind of necessity upon such of them as are Divines, to inquire (as this learned Antiquary hath done himself, and adviseth others) into the Originals of our English Constitution. And as he hath recommended the Study of the Laws of the Land to those of his own Profession: So it were to be wish'd, that some judicious Gentleman of the long Robe would in like manner write a Discourse, to recommend to those of his Profession the Study of Ecclesiastical Antiquities, and of the Ancient both Civil and Canon Laws, relating to the Constitution of the Church. It is evident from the Learned Chancellour Fortescue's Book De laudibus Legum Angliæ, and from other MSS of his, which it is to be hoped may one Day see the Light, that that eminent Juris-consult and Ornament of the Law, had likewise well Studied the Canon Law, and the School Divinity of his time. Sir Thomas More, that great Genius of his Age, and Lord High Chancellour of England under Henry the VIII, was also a great Divine. And to pass over others, we have within our own Memory several illustrious Examples of this kind. The two Lords Chief Justices Hales and Vaughan; the Lord Chancellor Clarendon, so often and so aptly quoted in the following Letter; the Lord Keeper North, who is there also quoted; and to name no more, the Lear-
ned

THE PREFACE

and Sir John King, who dyed in the prime of his Age, much lamented by the greatest Divines and Lawyers of his time. And how useful to a Judge the knowledge of the Laws of the Church was thought by my Lord Chief Justice Vaughan, will appear from this remarkable Story, which I do not question but some alive may yet remember: It happen'd that Civil as well as Common Lawyers, were retain'd in an Ecclesiastical Cause, in the Court of Common Pleas; when One of the Civilians, citing something out of the Canon Law, was interrupted by one of the Judges, who as it seems he had no Skill in that Law, so was not ashamed to own, and even glory in his Ignorance, and was seconded by the other Judge, who sat on the other hand of the Chief Justice; which so rais'd the just Indignation of that great Oracle of the Law, that rising up, and lifting his Hands towards Heaven, he express'd himself in these or the like words. Good God! what great Sin have I committed, that I should sit on this Bench between two Judges, who boast in open Court of their ignorance in the Canon Law! To these instances of a late Reign, I may add as great a one in this, the present Lord Chief Justice of the Queen's Bench, the Learned Sir Thomas Parker, who to his great understanding in our Common and Statute Laws, and in the English Constitution, before and since the Conquest, hath added such a knowledge of all the most useful parts of Divinity, that it is not easy to determine, whether he is better skill'd in Human or Divine Laws. Would the generality of those who Study and Profess the Law, Copy after these great Examples, we should soon see that happy Agreement and Harmony between these two Noble Professions, and the Ecclesiastical and Civil Jurisdictions, upon which the Author of the following Letter so much insists, and which seems to have been his chief aim and design in Writing it.



ESSAY

ON

The great Affinity and mutual Agreement of the two Professions of Divinity and Law, &c.

WORTHY SIR,



YOU will be pleas'd to excuse me, if upon some late Alterations in publick Affairs, I now use a Freedom with you, which some Months ago, many would have thought unsafe, and more, imprudent. For according to the Notions of things, at that time generally entertain'd, it must have been dangerous for a
B Clergy-

Clergy-man, as I have the Honour to be, to have had any Correspondence about political Matters, with a Person of your Character, a Professor of the Law, and one who highly adorns that Profession. Such were the Difficulties upon honest Men of all Professions, in that troubled Season; and at so great a distance would some Men have put the two most learned and noble Professions: And those whom, without any Defect of Charity and Moderation, we may believe to have been rather Enemies, than Friends to both. This was that noble Historian's Opinion of them; who, as he was the great Oracle and Ornament of your Profession when living, so has he more enobled it, than any one Person by whom the long Robe was ever honour'd, in that his Blood is now current in the royal Veins, where may it long circulate for the Protection of the *English Church*, and the *English Laws*.

I join the Laws, and the Church of *England*: For so nearly are they ally'd, and by all who understand their Nature so closely interwoven and conjoined in their Interests, that none can attempt to make a Separation between them, but to the great Prejudice and Disadvantage, if not to the Destruction of them both. This no doubt is sufficiently understood by all who are truly learned in your Profession:

But

But since there are some (they know best for what purposes) who are pleased with Fancies of their own, and affect to give a new Turn to Affairs by another kind of Management, than will consist with a happy Union of these Interests; and are carried on with an Opinion, that the Clergy ought by no means to have any thing to do in Matters of State, or even to touch upon the Original of Government, and the Right of Sovereign Princes; I thought it might well be worth my while to bestow some few Hours of Reflection, in considering whether or no the Assertion of such Positions were founded upon any Grounds of good Authority in our ancient *English* Laws and Constitution, or derived its Birth from a present prevailing Party-Humour, or some private Imaginations of their own. And indeed, with all the Diligence I cou'd use in pursuing such Enquiries, as seem'd most proper for this End, I could not find any Authority from those who have been thought to treat with greatest Wisdom and Learning upon the Original of our *English* Government, on which to build so vain, and absurd an Opinion: For surely no Man who studies the Law, and has Learning enough to know the Worth of, and Honour due to a Man of Character in that Profession, can be ignorant how much the Law of *England* va-

lues itself, and is thereupon to be valu'd, in that it takes its chief Authority from the Law of God, and that nothing is allow'd for Law in this Christian Kingdom, which is contrary to the Divine Law. This cannot be a Secret to any one, who knows the bare Titles or Inscriptions of two or three of the first Chapters of a Book, which is not unknown to the youngest Students of Law. For they that have not sufficiently acquainted themselves with the celebrated Work of your so highly valued *Christopher St. Germaine**, may learn enough upon the Subject before us, even from the *English Abridgment of Doctor and Student*†: Where in the fifth Chapter we have this plain Assertion, “ That the Law “ of *England* is more specially built upon “ Six principal Grounds, viz. *The Law of Reason, the Law of God, General Customs, Maxims, Particular Customs, and Statutes.* The second Ground here mention'd, is, *The Law of God.* And in the following Chapter he adds, That, “ For Declarati- “ on that the Law of God is a Ground of “ the Law of *England*; it is enquired in “ many Courts of this Realm, whether “ any hold Opinions against the Faith, &c.

* *Dialogus de fundamentis legum Angliæ, & de Conscientia, per Christophorum de Sancto Germano, communiter Seyngerman, confectus. Edit. Anno 1604.*

† *Edit. Lond. Anno 1630.*

It is also there affirmed, " That any general Custom, or Statute, made against the Law of God, as that no Alms should be given, were void; and yet the Statute * of 23 E. 3. against Alms to be given to valiant Beggars is good, because it observes the Intent of the Law of God." Now, this being a Christian Kingdom, in which the Word of God is receiv'd; it cannot in any sober Man's Opinion, but be esteemed one of the highest Commendations of the Law of it, that it makes the Law of God so far one of its principal Grounds, as to admit nothing that contradicts it. And consequently, that nothing can put a greater Disgrace upon the Laws of this Realm, in the Judgment of all good Christians, than the Attempt of making so great a Separation between them and the Laws of God. Now, if there be such a fundamental Agreement between the *Institutions* themselves, how comes it to pass, that there

* And in many Cases, the King's Judges must judge after the Law Ecclesiastical: - And the Ecclesiastical Judges also, must in many Cases give their Sentence according to the Laws of the Realm. Abridg. ch. vi. p. 9. and 10.

In hiis casibus & in multis aliis, oportet quod iudices domini Regis iudicium suum formant secundum legem ecclesie, sicut in pluribus casibus, oportet etiam quod iudices ecclesiastici iudicium suum secundum leges Angliæ formant. *Sengermayne* ch. vi.

must needs be so great a Distance and Variance kept up between the Professors of them? I believe it cannot be well accounted for in Reason, why the Lawyer may not in civil Causes that require it, shew the Grounds and Reasonableness of things, by Arguments taken from Divinity: Nor why the Divine may not upon Occasions of like Importance, declare the Affinity between the Divine Law and Human; and infer just and proper Consequences from thence. Is a Judge in giving his Charge upon the Bench, as the Queen's Minister, and in her Name, blamed for declaring that she requires to have all her Laws inviolably observed; and the rather so, because they are Laws, so well and religiously appointed, as that they well deserve to be maintain'd, and conform'd unto in a Christian State, because they have a Foundation in the Law Divine? Let it farther be imagin'd, that the same Judge should adorn and strengthen his Discourse, by Illustrations out of Holy Scripture, and by just and pertinent Allegations out of the Writings of the Fathers, or by Authorities from ecclesiastical Canons and Councils, as the Custom formerly was: Would it be decent or modest for any Divine to tell him, that he medled with things that were not of his Cognizance; that he usurp'd the Priest's Office; that

that it neither became his Lordship's Place, nor Person to preach? I dare say, if any Clergy-man on this side Lunacy, could be so imprudent, he would not find the least Encouragement from his Brethren of the Clergy, or any others: But on the contrary, all wise and good Men would unanimously thank him for the Respect he had shewn to the Profession of Divinity, in making it appear to be so useful, and nearly ally'd to his own. Now if this in the civil Magistrate, the Queen's immediate Minister, is both allowed and applauded; how comes it to pass, that the Stewards of the Divine Mysteries, the immediate Ministers of Christ, to whom is committed in a more especial manner, the Custody and Interpretation of the sacred Oracles, which the Law of *England* manifestly acknowledgeth to be one of its principal Grounds; How comes it to pass, that these Ministers of Christ, these Messengers of Peace, must be restrained in their Pulpits, from declaring in the Name of their Master Christ Jesus, that Obedience which himself commanded, and his Apostles taught, to be due to sovereign Powers, and by which the Laws of the Land will be best secured, and the Peace of the World best preserved, upon Principles of Religion and Conscience? The Matter being thus fairly stated and consider'd,

der'd, it plainly appears, that there is nothing of that Reason and Plausibility which is pretended, in asserting that Clergy-men have nothing to do with Politicks; it is plain that our Law looks upon no Politicks to be good, that will not allow Clergy-men to be concern'd in them, so far as is before mention'd. Nor was this any Innovation in *St. Germaine's Days*. The Church and the State have ever more remained in the strictest and firmest Alliance, since the State first became Christian. And it is not only reasonable to think a Nation converted to the Christian Faith, would immediately be govern'd by Christian Laws; but that it actually was so, is a Matter of Fact most clear in History.

In the Monuments of our most ancient Laws, the Church and the State went Hand in Hand together; and it is observed by a † learned Person, and may be proved, that the Ecclesiastical and Civil were one and the same Courts, 'till the Conqueror's Time; and when he made the Separation between them, he pretended it for the Ease and Benefit of the Church. But his Son *Henry the First*, repeal'd this Act of his Father, and put things again on their ancient Foot. For

† See Mr. *Sommer's MS. Notes on the Laws of H. I.*

in the XXXI of those which are called his Laws, publish'd at the End of † Mr. *Whewell's* Edition of *Bede*, we find it thus provided. " That the Bishops, Earls, " and other Powers, ought to be present " in the County-Court, to declare the " Laws of God, and determine secular " Affairs, after mature Consideration."

This was done in Condescension to his *English* Subjects, who had a natural and particular Affection and Regard for the Customs of their Ancestors, amongst which the maintaining a mutual Correspondence between the Ecclesiastical and Civil Powers, was to be look'd upon as one. And we shall find the exact Sense of the very Words but now cited in King *Henry's* Laws, in the fifth Chapter of King *Edgar's*. Where having appointed, that there should a County Court be held twice a Year. It goes on: * 7 ðær heo on ðære rice ge-

† LL. H. I. c. xxxi. p. 187. Interesse Comitatus debent Episcopi, Comites, & ceteræ Potestates, qui Dei leges & sæculi negotia iusta consideratione diffiniant.

* Nor was the City of *London*, in ancient times, (however averse some of its Inhabitants are to it in these Days) a Stranger or an Enemy to the joint Commission of Ecclesiastical and Civil Persons, in judicial Matters. Their *Yld Hall* has been well acquainted with such Judgments. This we learn from the *Judicia Civitatis Londoniæ*, in the *Text. Ross.* where we are told, Ðiſ 17 reo geſæðner þe þa biſcopar. 7 þa geſeƿan þe to lunden býrig hyƿað.

mote bysceop: ⁊ ealðopman. ⁊ þær ærþer
tæcan ge godes rihte ge weopula riht:

“ And let there be at the County Court,
“ the Bishop and the Earl; there to teach
“ both what is God’s Right, and what is
“ secular Justice.” This we find repeated
in the same Words, in the seventeenth
Chapter of the secular Laws of King
Knute, one of the best Law-givers this
Nation ever had. The whole Matter is
farther illustrated by a Description of one
of these County Courts, and of what was
transacted in it, which was held in the
County of *Hereford*, and which is exhibi-
ted to us by the great Restorer of *Saxon*
Learning, in his † *Thesaur. vet. LL. Sept.*
from a Copy communicated to him by
that great Master of universal Knowledge,
both as to Books and Business; whose
eminent Skill in the History and Antiqui-
ties of his Country, and true Zeal for the
Interest of it, makes him worthy of those

gecepen habbað. ⁊ mid weodum ge per-
nos on upum frithgegyldum: &c. *Text.*
Roff. fol. 88. This is the Judgment that the Bishops and
secular Magistrates which belong to *London*, have de-
clared, and with Pledges, (i. e. Oaths) confirm’d in
our Frithgeild, i. e. *Tld*, or *Gild Hall*. See *Sommer’s*
MS. Notes on the ancient Glossary of *St. Austin’s*, ad-
ded to *Mr. Lambard’s Glossary*, at the End of *Wheelock’s*
Edition of the *Saxon Laws*.

† *V. Hicetii Thesaur. Linguar. vet. Sept. in Differ-
tut. Epistol. pag. 4.*

Royal

Royal Favours, and of that Truff, by which he scarce is more adorned, than her Majesty's Affairs are strengthened, and the Hearts of her good People set at Ease: I mean that great Encourager of Learning, as well as Master of it himself, the Right Honourable *Robert* Earl of *Oxford*, Lord High-Treasurer of *Great Britain*. The Writing is to this effect. Ðen sputelad on ðissum geppite. ꝥ an rcmmot rat æt Ægelnoðesttan be Lnutey dæge Linger. Ðæn raton Æpelstan b. 7 Ranig Calbornman. 7 Eðwine þæn Calbornmanner. 7 Leoppine Fulfriðer sunu. 7 Ðuncil hpte. 7 Torig Pruba com þæn on ðar Linger æpende. 7 Ðær wæs Bryning rcn-genera. 7 Ægelpearð æt spome. 7 Leoppine æt spome 7 Godric æt stoce. 7 ealle ða ðegnar on ðeneronðrcine: Ða com Ðæn rapende to þam gemote Eðwine Enneapner sunu 7 spæc Ðæn on his agene modop æfter sumonðæle landes. ꝥ wæs poolnærun. 7 Gynðerleah. Ða acroðe þe byrceop hpa rceolde anrpenian for his modop: Ða anrpenode Ðuncil hpte. 7 ræde ꝥ he rceolde:

“ From this Writing it appears, That
 “ a certain County Court was held at
 “ *Ægelnothestan*, in the Reign of King
 “ *Cnutus*: In which Assembly sat *Ærbel-*
 “ *stan* the Bishop, and *Ranig* the Earl,
 “ and *Edwine* the Earl's Son, and *Leof-*

“ wine, *Wulfsey's* Son. Here also were met
 “ upon the King's Concerns, *Thurkil*
 “ *White*, and *Tofig Pruda*, with *Bryning*
 “ the Sheriff, and *Egelweard* of *Frome*,
 “ and *Leofwine* of *Frome*, and *Godric* of
 “ *Stoke*, and all the Theynes of *Hereford-*
 “ *shire*. There was also at that Meeting,
 “ *Edwine Enneaw-son*, who enter'd Suit
 “ against his Mother, concerning some
 “ Lands known by the Name of *Weoling-*
 “ *tun* and *Cyrdesleab*. Then demanded
 “ the Bishop: Who was Defendant for the
 “ Mother? To which *Thurcil White* an-
 “ swer'd, That He should undertake her
 “ Defence, &c. It is plain from this Re-
 cord, what Matters were transacted, and
 what Persons presided in these County
 Courts, the Bishop, and the Earl; as also
 who accompanied them, namely the She-
 riff, and all the Theynes or Gentlemen of
 the County, who owed Suit and Service
 to the Court: So that besides the Bishop
 and the Earl, who are there only nam'd,
 we may guess what we are to under-
 stand by the † *Ceteræ Potestates*, in the
 Chapter of King *Henry's* Laws above-
 cited. Nor did the Bishop appear only
 as a Spectator, and one who waited upon
 the Earl, for his greater State; but as

† See the *Placitum apud Pinedene*. in *Selden's Spici-*
leg. ad Eadmer. pag. 197. as also the *Text. Roff.*
 fol. 168. &c.

a * Judge, who acted in those judicial Affairs, as well as the Earl; who was his Co-assessor, tho' of the two the Bishop was chief. For here we find the Bishop in this Register of the County Court of *Herefordshire*, enquiring after the Defendant, and examining into the Merits of the Cause. The learned Person who has obliged us, by making publick the Acts of this Court, has farther made us indebted to him, for the most ingenious and judicious Remarks he has made upon it; wherein he not only observes the Bishop to have the first Seat in these Assemblies, and to have an equal Power with the Ealdorman in distributing Justice: But moreover, that the same Parity of united Jurisdiction was continued 'till the Days of the Conqueror, who with his *Normans* being always severe towards the Church, about the seventeenth Year of his Reign appointed, that because the Kingdom and the Priesthood had distinct Jurisdictions, therefore Civil and Ecclesiastical Causes should be tryed in several Courts. The same learned Person takes notice, that

* See Dr. *Hicks's* large and learned Discourse upon this Point, in his *Thesaur. vet. LL. Septent. Dissert. Epistolar.* p. 60. *Dunstanus Archiepiscopus, dum in Curia Comitatus, cui præsidere solebat, sacramentum coram Scirmanno quatenus testis, diceret, iudicis tamen ecclesiastici personam sibi sustinendam putavit.*

this

this Custom of the Bishop's and Ealdorman's sitting together in the Administration of Justice, call'd to his mind that ancient Custom amongst the *Germans*, from whom the *English Saxons* derive their Origine,
 “ * By which it was not permitted to any
 “ besides the Priests, to take Cognizance
 “ of Matters, or to bind or beat any one;
 “ and this not as a Punishment inflicted
 “ by the General, but as the Command
 “ of God, whom they believed to be
 “ the God of War.” In their great Councils likewise, † “ Where they met together in their Arms, the Priest commanded Silence, who had then a coercive Power.” Wherefore, as all Nations, on their Conversion to the Christian Faith, were apt to have a great Reverence for the Christian Priests, this was more natural to the *Germans*, amongst whom, after they had received the Faith, the Authority of the Priesthood was so considerable, that without their Counsel and Advice, nothing could be look'd upon as well done, either in the Camp, or in the Court.

* Ceterum neque animadvertere neque vincere, neque verberare quidem, nisi sacerdotibus permissum; non quasi poenam, nec ducis jussu, sed velut Deo imperante, quem adesse bellantibus credunt. *Tacit. lib. de morib. Germanor. cap. 7.*

† Ut turbæ placuit confidunt armati, silentium per sacerdotes, quibus tum & coercendi jus imperatur. *Tacit. lib. de morib. Germanorum, cap. 11.*

There

There are many other curious Observations made upon that ancient Writing, worthy to be consider'd by an Antiquary, to which I refer you, being at present concern'd no farther, than to shew the ancient Date of that good Correspondence that was so early maintain'd among our Ancestors, between Civil and Sacred Persons and Affairs. Nor is this Instance out of *Tacitus* a heathen Author, concerning a heathen Nation, a Testimony upon which alone we rely, to prove the Antiquity of that Custom. * *Mr. Selden* in his *Notes and Spicileg.* upon *Eadmer.* makes it of a long Standing in the Christian Church, bringing the Council of † *Antioch*, and the *Apostolical Canons* for his Vouchers; at least with Relation to the stated Times, at which it was usual for Ecclesiastical Synods to meet. Which agreeing exactly with these appointed for the joint assembling of the Bishop and the Earl in our County Courts, leaves room for a very probable Conjecture, that the Custom here amongst the *Saxons*, was at least as ancient as Christianity; when the Piety of the first Royal Converts, thought it would be some Ornament to their Government, and infuse into their Laws a kind of sa-

* *Seld. ad Eadm. Not. & Spicileg.* p. 166, 167.

† *Vid. Conc. Antioch. Can. 20. Apost. Can. 38.*

cred Authority, to have some Footsteps of the ancient Canons, appear in the Body of them. Nor can † he elsewhere dissemble it to have been interwoven into the Body of the *Imperial Laws*, and a Part of the *Theodosian Code*. For after all the Pains he has bestowed to disprove what before he had granted on this Subject, the Testimony of * *Eusebius*, to which himself refers, is unanswerable. “ The Determinations which the Bishops declared in their Synods, to these did he (*Constantine* the Emperor) fix the Seal of his Authority, so that it was not lawful for the Rulers of Provinces to rescind their Decrees, that the Priests of God ought to take place of any Judge. In Confirmation of this Opinion, and to shew the great Regard that was paid to the Ecclesiastical Canons in the *Anglo-Saxon* Times, both by the Priests, the Prince and the People; The Reader may do well to consult the *Dissertat. Epist.* of Dr. *Hickes*, p. 60. And my Lord *Clarendon* makes it a Matter of much Grief and Lamentation to him, that there was in his Days so much

† Seld. *ad Fletam Dissert.* cap. 5. §. 5.

* Καὶ πρὸς τὴν Ἐπισκοπὴν ὃ ὅρις πρὸς ἐν συνόδοις
 ὑπογράφεται ἐπισφραγίζεται. ὥς μὴ ὕμναι τοῖς τῇ
 ἐθνῶν ἀρχαῖς, τὰ δόξαντα ἀρᾶν. πάντες γὰρ
 τῷ δικαίῳ πρὸς ἱερῆς τῆς Θεοῦ δοκιμασίᾳ. *Euseb.*
de vita Constantini, lib. 4. cap. 27.

Enmity and Animosity between the Professors of Divinity, and of the Law, thro' the Misunderstanding or Indiscretion of particular Men of either Profession, " Since
 " it was so well known, that the Ecclesi-
 " astical and Civil State was so wrought
 " and interwoven together, and in Truth
 " so incorporated with each other, that
 " the one could not long continue in Pro-
 " sperity without the other." He had
 occasion to speak largely on this Head,
 upon the taking away of the Bishops
 Votes in the House of Lords; and he
 tells us with sufficient Scorn and Indig-
 nation at them, what kind of Men were
 then Managers to enflame the Difference.
 " * They found (says he) Lawyers in
 " their House, who prostituting the Dig-
 " nity and Learning of their Profession,
 " to the cheap and vile Affectation of
 " popular Applause, were not ashamed
 " to aver Custom and Law for their sense-
 " less Proposition." Nor did he at all
 seem surprized at such Management, from
 Men of such a Character. Concerning
 which, he thus declares himself with great
 Frankness and Openness. " † I do not at
 " all wonder, that in the great Herd of
 " common Lawyers, many Pragmatical

* Lord Clarendon's Hist. of the Rebell. Vol. 1.
 Part 2. pag. 304.

† Pag. 306.

“ Spirits, whose Thoughts and Observa-
 “ tions have been contracted to the nar-
 “ row Limits of the few Books of that
 “ Profession, or within the narrower Cir-
 “ cle of the Bar Oratory, should go along
 “ with the Stream in the Womanish Art
 “ of inveighing against Persons, when
 “ they should be reforming things; and
 “ that some, by Degrees, having found
 “ the Benefit of being of that Opinion,
 “ (for we all remember, when Papist and
 “ Puritan Lawyers got more Money than
 “ their Neighbours, for the private Opi-
 “ nions they were of, not what they de-
 “ liver’d in Publick) grew at last to have
 “ Fits of Conscience in earnest; and to
 “ believe that a Parity in the Church
 “ was necessary to Religion; and not like
 “ to produce a Parity in the State; of
 “ which Doctrine had they been then
 “ suspected, they would quickly have
 “ been ashamed of such Divinity.” He
 seems not much surprized, that Men of
 such a Character should fall in with such
 Measures; whereas the Acting of another
 sort of Men, yields him Cause not only of
 Astonishment, but of Grief.

“ But (continues he) that learned, and
 “ unbiass’d (I mean unprovoked) Men, in
 “ that Science of our Law, who knew the
 “ Frame and Constitution of the Kingdom,
 “ and that the Bishops were no less the
 “ Repre-

“ Representative Body of the Clergy,
 “ than the House of Commons was of the
 “ People, and consequently, that the de-
 “ priving them of Voice in * Parliament,
 “ was a Violence, and removing Land-
 “ marks, and not a shaking (which might
 “ settle again) but dissolving Foundati-
 “ ons; which must leave the Building
 “ unsafe for Habitation: That such Men,
 “ who knew the Ecclesiastical and Civil
 “ State was so wrought, and interwoven
 “ together, and in Truth, so incorporated
 “ in each other, that the one could not
 “ long continue in Prosperity without the
 “ other; and that the Professors of the
 “ Law were never at so great a Height,
 “ as even at this Time, that they so un-
 “ justly envied the Greatness of the
 “ Church: And lastly, that they who
 “ might well know, that the great un-
 “ weildy Body of the Clergy, consisting
 “ of such different Tempers, Humours,
 “ Inclinations, and Abilities; and which
 “ inevitably will have so strong an Influ-
 “ ence upon the Nature and Affections of
 “ the People; could never be regulated
 “ and governed by any Magistrates but
 “ of themselves; nor by Rules, but of
 “ such Power as the Bishops exercised:
 “ Whom (besides all Arguments of Pie-

“ ty and Submission to Antiquity) the
 “ Experience of the blessed Times since
 “ the Reformation, not to be parallel’d in
 “ any Nation under Heaven, declared to
 “ be the most happy Managers of that
 “ Power, whatsoever Rankness and Excre-
 “ scence might have proceeded from some
 “ Branches: I say, that these knowing
 “ and discerning Men (for such I must
 “ confess there have been) should believe
 “ it possible for them to flourish, or that
 “ the Law it self would have the same
 “ Respect and Veneration from the Peo-
 “ ple, when the well disposed Fabrick of
 “ the Church should be rent asunder,
 “ (which without their Activity and Skill
 “ in Confusion, could never have been
 “ compass’d) hath been to me an Instance
 “ of Divine Anger against the Pride of
 “ both, in suffering them to be the fatal
 “ Engines of breaking one another, where-
 “ as neither could have been oppress’d by
 “ any other Strength or Power but their
 “ own.

“ And I cannot but say, to the Profes-
 “ sors of that great and admirable Myste-
 “ ry, the Common Law (upon which no
 “ Man looks with more Affection, Reve-
 “ rence and Submission) who seem now
 “ by the Fury and Iniquity of the Time,
 “ to stand upon the Ground they have
 “ won, and to be Masters of the Field,
 “ and

“ and it may be, wear some of the Tro-
 “ phies and Spoils they have ravish’d from
 “ the oppress’d; that they have yet but
 “ sharpened Weapons for others, to wound
 “ them; and that their own Arguments
 “ and Eloquence may be, one time or
 “ other, applied to their own Destruction.
 “ And therefore if they have either Pie-
 “ ty to repent, and redeem the Ill that
 “ they have wrought; or Policy to pre-
 “ serve their own Condition from Con-
 “ tempt, and themselves from being
 “ Slaves to the most abject People; they
 “ will at length wind up the Church and
 “ the Law into one and the same Interest;
 “ and by a firm and steady Pursuit, en-
 “ deavour to fix both on the same Foun-
 “ dation, from whence they have been
 “ so violently disturb’d.” I thought it
 might not be amiss, for a Clergy-man,
 who heartily desires and endeavours that
 there may always be a right and good Un-
 derstanding, between the two great and
 honourable Professions of Divinity and
 Law; and that they may always prove to
 each other, a mutual Support, to confirm
 and give Authority to what already hath
 been said, from a Person who hath been
 of greatest Power and Knowledge in the
 Law; and who, it is plain, had not only
 a thorough Sense of the Reasonableness of
 the thing, and its Agreement with Anti-
 quity,

quity, but shews them plainly to be Men of no Honour, and no Reputation amongst the Lawyers, who were for separating the Interests of Church and State; they *prostituted* the Honour and Learning of their Profession, to the *cheap and vile Affectation of popular Applause*. They were a sort of *Pragmatical Spirits*, of narrow Thoughts and Observation, having little Acquaintance with Books, and those only of their own Profession. And if any Men of better Knowledge, ran in with the same Counsels, (which he cannot but own with Grief) those he declared to be both impolitick and wicked, in acting contrary to their own Conscience, and Knowledge of the national Constitution, and to all Piety, as well as Deference to Antiquity; of this he wishes them to repent, that things may again be resetled upon that Foundation, from which they had been violently disturbed, by once again winding up the Church and the State in one and the same Interest. From all which, one would naturally conclude it to be no such Crime for the Clergy to be so far skill'd in Christian Politicks, and in the Nature of our *English* Constitution both in Church and State, as to enable them to persuade and instruct Men in those Rules and Principles of Duty and Obedience, which shall engage their Inclinations to pro-

promote the Interest and Security of both. No Man was ever yet of the contrary Persuasion, supposing him to be a wise and knowing Man, who had not some private Regard of his own, distinct from the good of the Publick, for the sake of which he judg'd it necessary, or at least expedient for the Clergy to be silent and unexperienc'd in State Matters: But if it was a Crime so much to be lamented, and for which Men were so sincerely to repent, who made any Differences between the Church and the State, and the several Ministers of them, being Men of different Professions, to the diminishing any Right belonging to the former: How much more heinous would their Guilt be; and how much more deeply their Sin to be repented of, should any of the Clergy, of any Denomination, in any Age, concur in the same ungodly Measures, connive at, or encourage the lessening, or depressing of those Rights, which by all manner of Obligations ought to be maintained and secured by them, not only as their own Property, but as a Trust committed to them, for which they must be accountable? And tho' it might some Months ago, as was intimated in the beginning of this Essay, have been judged both improper and unsafe for a Clergy-man to treat of such Matters with a Lawyer: And tho' these

these wise, and learned, and pious Counsels, and Observations of the great Earl of *Clarendon*, might then be thought less worthy to be regarded and observed; yet now by the Grace of God, and the Goodness and Prudence of our Most Excellent Queen, the Current of Affairs is so reduc'd into its primitive and natural Course; and so favourable to the Truth, and the joint Interest of Church and State; that those are placed by Her Majesty's great Wisdom, to preside over the Law, who come nearest to that great Lawyer, and noble Historian, in Knowledge and Integrity, as well as Affection both to Church and State; and who being above the mean Arts of *Prostitute* and *Pragmatical Spirits*, durst openly against all Threatnings and Opposition, testify their Adherence to the Church and the Crown, by undauntedly asserting the Rights and Prerogatives of both: I mean particularly, the *Keeper of the Great Seal of Great Britain*, and the *Lord Chancellor of Ireland*.

I know when those of the Faction are urged with any Strength of Reason, and perceive themselves unable to stand against the Force of such Authorities, (tho' at the same time they cease not with all their Art in Private, to insinuate their crude notion amongst the unexperienc'd and ignorant) they will seem to let fall their general Assertion, and
appear

appear to be surprized that any one should take pains to persuade them of the joint Interest of Church and State, in the Frame and Nature of our Constitution, which they pretend not to deny. But they cannot however apprehend, how it can from Reason or Antiquity be made out, notwithstanding this Conjunction and Intertexture of the Interests of the Ecclesiastical and Civil State, that the Temporal Concerns should any way become the Business of the Pulpit, and that the Clergy should preach, or write Politicks. As to the Reasonableness of the Thing, it is plain from their own Concessions of the joint and inseparable Interest of the Secular State, and Ecclesiastick; and it is justified, to speak *ad homines*, by their own Practice and Allowance, since they permit and encourage those Clergy-men, whom they have found wicked enough to receive their Principles, and become Apostates to their own Order; not only to write and preach Politicks, but to teach the Principles of Rebellion, and to write for the Subversion both of Church and State. So that their Enmity is not to those who preach false Politicks, and make it a Virtue and Duty to rebel: But to those who out of Conscience towards God, would promote the publick Peace, by instilling these Principles of Obedience to the Sovereign

reign Powers, which are in the Ground-Work of our Constitution, and are founded in the Laws of God and of the Land. One might urge, as no unreasonable Instance for the Defence of the Clergy in this particular, the great Abilities and Sufficiency of some of them for Civil Employments, above most of the Laity, and even some of the Professors of the Law. There being, as my Lord *Clarendon* observes, some of that Profession, whose Studies being confined to the few Books of their Profession, and to the narrower Circle of the Bar Oratory, may not have had Leisure or Opportunity for such an acquaintance with our ancient Histories and Records, in order to a more exact and accurate Knowledge of the Original of the Laws and Constitution of the Nation, to which some Clergy-men have happily arrived, even since the Reformation: And this Knowledge of the Laws has been so far from being thought impertinent or foreign to their Character, that several of them have been promoted to the chief Judicatures, to which they could not have been equal without the greatest Abilities of this kind. Nor should this be thought to carry any thing in it that is invidious, inasmuch as the same Distinction is admitted amongst the Men of our own Profession. It being out of all Controversy, that there are several Men of good and approved

ved Abilities in the Eloquence of the Pulpit, and in the plausible and popular way of Preaching, who yet are as little vers'd in ancient Ecclesiastical Learning, as some Lawyers are in the Originals of their own Profession, and of our Constitution.

But from the Reasonableness of the thing, let us pass on to the Matter of Fact, and the Suffrage of Antiquity. And this we are able to make good, not only from the Times of the *British* Constitution, but from that of the *Anglo-Saxons*, who succeeded. * *Bede* who names *Gildas* as a Voucher for him in the *British* Affairs, will be of good use to us in this Matter, and from the Complaints of *Gildas*, wherewith he acquaints us, against his Country-men the *Britains*, for their Negligence, and giving way to the Times, we may probably at least conjecture, what before had been customary, and a Duty: And that those Customs and necessary Duties had been aforetime well observ'd, whereof he taxed their present Neglect. Amongst these Duties, it was believed to concern the Bishops and the Clergy, to be undaunted and unreserved, in preaching the Gospel, and in declaring the necessary Doctrines of Christianity: This they were to do, by a conscientious

* *Eccles. Hist.* lib. 1. cap. 22.

Discharge of their Duty, superior to all temporal Regards; nor was any thing, the Suppression whereof might prove injurious to the Advancement of the Christian Faith, to be in any wise either conceal'd, or stifled, or dissembled upon any Reasons of State. So that among the many other flagrant Enormities, and Wickednesses not to be express'd, for which *Gildas* makes his Lamentation, he adds this as very notorious, † *That they never committed to the Anglo-Saxons, who dwelt together with them in Britain, the Word of Faith, by preaching it to them.* Their Restraint from which, was no doubt upon Reasons of State. There was an inveterate Enmity between them and the *Saxons*, and so it could not be then a *fit Time* to make a whole Nation Partakers with them in a celestial Inheritance and Kingdom, from whom in their secular Dominions they had received so much Disturbance: But what farther is observ'd by the Historian? It nevertheless pleased not the Divine Goodness to forsake the People he had foreknown, who appointed to the Nation above-mentioned, much more worthy

† Inter alia inenarrabilium scelerum facta, quæ Historicus eorum *Gildas* flebili sermone describit, & hoc addebat, ut nunquam genti Saxonum, sive Anglorum, secum Britanniam incolenti, verbum fidei prædicando committerent. *lib. 1. cap. 22. in fine.*

Preachers of the Truth, through whom they might believe. The Silence of the *British* Clergy, and their Restraint, in a Concern of so vast importance, and in so necessary and glorious an Act of Charity, could be no other than Political, the Presence of interfering with Reasons of State. The Clergy thro' Fear or Ambition, were altogether seculariz'd. And this, as *Gildas* complains, was that which brought the Wrath of God upon them, so that he gave them up into the Hands of their Enemies, and they that hated them were Lords over them. *Bede* is not the only Person from whom this Complaint of *Gildas* is transmitted to us; *Lupus* the *Saxon* Homilist makes use of the same Authority in a very pathetick Strain. * An ðeopita pær on Bpýtta tǣdum. Gildas hætte. se appar be heopa mýðaðum hu he mið heopna sýnnum sƿa oþenlice sƿýþe God gegra-medan. ꝥ he let æt nýhstan. Engla hepe heopa eapð gepinnan. 7 Bpýtta ðugeðe fopðon mið ealle and ꝥ pær gepopðen ðer þe he seðe. 7 ðuph gelapeðpa negolbpýce 7 þuph lapeðpa lahbpýce 7 ðuph picpa nearlac. 7 ðuph gýtrunge pohgertneona. ðuph leobe unlaga. 7 þuph þohðomar. ðuph bircopa arolcennerre. 7 unrotnennerre. 7 ðuph lýðne yphðe

* See Dr. *Hickes's* *Dissert. Epist.* in his *Thesaur. Ling. vet. Septentrion.* pag. 105.

Gober byðela. þe Gober gersugeban eal-
 ler to gelome. ⁊ clumeðan mid ceap-
 lum. þær hy rcolðan clýpian. Ðurh
 fulne eac folces gælgan ⁊ þurh oref-
 fylla ⁊ mænigrealde rýnna heopa eapð
 hy forpophstan. ⁊ relpe hy forpunðan:

“ There was a certain wise Man in the
 “ Times of the *Britains*, *Gildas* by Name,
 “ who hath given in Writing an Account
 “ of their Misdeeds. How they with
 “ their Sins, did so very openly inflame
 “ the Wrath of God against them, that he
 “ in a short time permitted the *Engliſh* Ar-
 “ my to win their Land from them by
 “ Conquest, and entirely to extinguish the
 “ Glory of the *Britains*. And this, as he
 “ told them, came to pass, by reason that
 “ the Clergy broke their Rule, and the
 “ Laity broke the Law. Through the
 “ Rapine of the wealthy, and the cove-
 “ tous Extortion of Usury: Through the
 “ Lawlessness of the People, and through
 “ false Judgments: Through the Sloth
 “ and Ignorance of the Bishops, and the
 “ unacceptable Ministrations of those of
 “ the sacred Function, who mumbled and
 “ mutter’d with their Jaws, when they
 “ ought to have spoke out, and cry’d a-
 “ loud: Through the excessive Gluttony,
 “ and Intemperance of the Men of all
 “ Degrees, and for their manifold Sins of
 “ all sorts; they forfeited the Land of
 “ their

“ their Habitation, and gave them-
 “ selves an incurable Wound.” The wise
Britain thought it not enough to plead
 the Unseasonableness of the Time, or
 Reasons of State; he believed that such
 kind of Pleas would be no otherwise heard,
 than to hasten the Wrath of God, as it is
 plain it proved in the Event.

And that the same Notion of things
 with this of *Gildas*, was continu’d through-
 out the *Saxon* Times, will appear both
 from their Ecclesiastical and Civil Consti-
 tutions; I will for Brevity’s sake produce
 but one single Instance out of the *Worce-
 ster Code*, among the Books of *Junius* in
 the publick Library at *Oxford*; from that
 Chapter the Title whereof is, Be þeodri-
 tan. Lýningan. 7 Býrceopan. Eoplan. &c.
 where it declared thus, 7 býrceopar rýn-
 ðon býðelar. 7 Goder lāge laraopar. 7
 hi seculan bodian. 7 unriht forbeodian
 7 se þe orefhogige þ̅ he heom hlýrte
 Dæbbe him gemane þ̅ rið Godrylfne.
 7 gif býrceopar forgymað þ̅ hi rýnna
 ne rtyraðne unriht forbeodað. ne
 Goder riht ne cýðað. ac clumath mid
 chearflum þær hi sceolðan clypian ap
 heom þære rpiſcean. Be þam rppac re
 pitega. 7 gpmlice þur cpaeth. &c. “ And
 “ Bishops are the Bedels, *i.e.* Messengers
 “ and Teachers of God’s Law; and it is
 “ their Duty to preach, and to forbid all

“ Unrighteousness: And he who neglects
 “ to hear them, must be accountable for
 “ it to God. And if the Bishops neglect
 “ to stir up Sinners, and to forbid Un-
 “ righteousness, and do not declare the
 “ Law of God; but mumble with their
 “ Chappes, where they ought to cry aloud,
 “ woe be to them for their Silence.” Of
 these the Prophet speaks, and thus terri-
 bly threatens, &c.

And that in their Preaching they were
 not prohibited from teaching the Law of
 the Land, as well as the Law of God, the
 Homily of *Lupus* before cited, is an un-
 doubted Evidence; in which the Preacher
 with great Vehemence and Eloquence ar-
 raigns those Vices which were then almost
 national; and against which, in order to
 their Suppression, the Secular Laws had
 used all due Caution, and made the best
 Provision, as well as the Ecclesiastical.
 The Translator of the Homily, hath in
 his Annotations upon it, endeavoured to
 make this Matter clear, by comparing
 each Paragraph of the Sermon, with the
 Historians who wrote the Affairs of those
 Times; and from the Laws that were
 made in or about that Age, as well those
 which we find in Mr. *Lambard's* Collecti-
 on, as what we meet with in the Councils
 of the learned Sir *Henry Spelman*. Sir, I
 might here give you an Abstract of the
 seve-

several Heads, with the particular Remarks belonging to them, as a kind of Specimen: But I will not anticipate you in your Recourse to the Sermon it self, which possibly you may not think unworthy of your Perusal. However, there are two material Points, which cannot without Blame be pass'd over in this place. Since you will find they meet with so severe an Animadversion from the *Saxon* Homily, and the *Saxon* Laws, re-promulg'd; and that as it were from the Pulpit, and reinforc'd by the *Saxon* Homilists, agreeable to the Episcopal Character in those Times, That *bisceopas synðon byðelar*, The Bishops are the Cryers and Publishers, &c. The First has been already intimated, namely the Negligence of the Clergy, and Silence in a joint publishing the Divine Law and the Secular. The second thing worthy of Remark, is their just Indignation and Abhorrence of all kinds of Rebellion and Disloyalty. The Homily states the Matter thus, with a just Aggravation of those rebellious Triumphs and Atchievements, in which wicked Men rejoiced; but honest and religious Men were full of Mourning in these Days. Forðam hep synð on lande ungetryrða micle for Gode. ⁊ for populðe. ⁊ eac hep synð on eapðe [on myrclice piran] hlaforðrþican manege. ⁊ ealra mærc

hlafordryce re bið on worolde. ꝥ man
 hir hlafordes gawle berpice. ⁊ full my-
 cel hlafordryce eac bið on worolde.
 ꝥ man hir hlaford of life forpode.
 oððe of lande lifienðne dripe. Eac þar
 man forpode. ⁊ gýððan acpealde:

“ Because there is in the Land much and
 “ great Unfaithfulness in the sight of God
 “ and Man. And here are also on the
 “ Earth many Treasons of all sorts. And
 “ that Treason which is the worst of all
 “ Treasons in the World, that a Man be-
 “ trays his Master’s Soul: And there is
 “ that very heinous Treason in the World,
 “ by which a Man ensnares his Master’s
 “ Life; or drives him out of the Land
 “ alive, *Edward* was thus betray’d, and
 “ afterwards murdered, &c. Thus I
 may add, the Royal Martyr King *Charles*
 the First was forejudg’d to Death, man
 him forpæde, and afterwards murdered;
 and his undoubted Son and Heir King
Charles the Second, was driven out of the
 Land, and constrained to live in Banish-
 ment.

The Homilist had a very just and pious
 Indignation, at the several kinds of Treas-
 ons he here describes; but his Resent-
 ments have a particular Warmth against
 those Treasons that threatned any Injury
 to his Lord and Master’s Soul or Life; that
 mislead him by any wrong Counsels;
 that

that might prejudice him in his spiritual Concerns, and in the Affairs of Religion; or seduce him into any Measures that might probably bring his Life in Danger. The deposing Doctrine, and the driving Kings from their Possessions, was the Darling only of wicked Men in those Days; and the Absurdity of it will go down only with those who love to succeed them in the like Folly and Wickedness in all future Ages. *Junius*, as is remark'd by the Annotator on the Hamlet, has observed the Odiousness and Detestation with which all Rebellion and Treachery is look'd upon by our *Saxon* Ancestors. None, says he, was accounted more detestable and wicked by our Forefathers, than he, who having betray'd his Lord into the Hands of his Enemies, brought him in Danger of his Life: And therefore, whoever permitted so great a Fault to go unpunished, was adjudg'd not only against one Family, or against one Lord, to wage a most wicked War; but to violate all the Rights of Life and common Safety, and even of Humanity it self: For so great a Corruption of Subjects being unpunish'd, no Walls, (as *Cicero* speaks in his Oration for *Diotarus*) no Laws, no Rights will preserve our Safety: For when that which is within, and which is our own, shall with Indemnity fly out, and fight against us, there becomes

a Slavery in Dominion, and a Dominion in Slavery. And Mr. *William Somner* of *Canterbury*, that very learned Antiquary, as well as very honest Man, gives the like honourable Character of the Loyalty of our *Saxon* Ancestors, with whom, as well as with the *Normans*, he declares the Sin of Treason to have been without Atone-ment, and inexpiable. To confirm his Assertion in this Particular, he alledges the Preface to King *Alured's* Laws, to-wards the End. ^a Ði þa ȝeȝetton forþ þær milðheortnȝyſſe þe Ēnig lærðe æt mæȝtra ^c hȝylcra miȝðaðe. ꝥ þa ȝeopulð hlaforðas moȝtan mið heopa leaſan butan ȝynne æt ^d þæm forman ^e ȝylt þær ȝeoh bot onfon þe hi þa ȝeȝetton; ^f buton æt hlaforðreapre. on ^g þæm hi nane milðheortnȝyſſe ne ðorȝtan ȝecƿæþan. forþan þe Ēoð almihtig þam nane næ ȝeðememeð þe

^a Ðy *T. R.* ^b þære milðheortneſſe *T. R.*
^c ȝehȝylcepe *T. R.* ðæt *T. R.* ȝeopulð *T. R.*
 moȝton *T. R.*

^d þam *T. R.* ^e ȝylteðara ȝeohbota *T. R.*
^f butan æt hlaforð reappe þe hi þa
 ȝeȝetton *T. R.*

^g þam hi nane milðheortneſſe ne ðor-
 ȝton ȝecƿeðan. for ðam ðe Ēoð almiht-
 ig ðam nane milðheortneſſe ne ȝe-
 ðemeð ðe hine oȝephogoðon: *T. R.*

hine

hine orepfogbon. " Then ordained they
 " according to the Mercy which Christ
 " had taught, for almost every kind of
 " Offence, That the Lords of the World,
 " *i. e.* (*Kings, or other great temporal*
 " *Princes*) might by their own Leave,
 " without Sin, receive such a Compen-
 " sation in Money as they had appointed
 " for every first Offence; Treason or
 " Treachery to their Lord being only ex-
 " cepted. But to Traitors they durst not
 " declare any Mercy; because that Al-
 " mighty God had not judged them wor-
 " thy of any Compassion who had despi-
 " sed him." The Punishment of most
 other Offences was redeemable by a pecu-
 niary Satisfaction; but Treason could not
 be pardon'd; and this purely upon a reli-
 gious Account. They durst not here re-
 lax the Punishment, the Fault being re-
 puted to be more immediately against
 God: Which shews what Regard the *Eng-
 lish* Constitution then had to the Divine
 Right of Princes, and their being set over
 the People as God's Vicegerents; since the
 Law supposes, that the doing Injury or Vio-
 lence to the King, by whom God is pleased
 to be represented, is a striking at the Divine
 Authority, a Crime of that audacious and
 extravagant Guilt, that it cannot by any
 Atonement be excused. And to what is
 here alledg'd from the Preface of King
Alu-

Alfred's Laws, we may add the fourth Chapter in the Body of the Laws themselves, which subjects the Traitor, or him who does but harbour a Traitor, to the Loss of Life and Estate; and if any would clear himself of the Suspicion, it must be at the * Price and Value of the King's Life. And with these Laws of King *Ælfred*, who religiously and solemnly professes to have selected them with the utmost Care and Caution out of the best of those of his Predecessors, *Ina*, *Offa*, and *Æthelbert*, the first that received Baptism in *England*; We may compare the Laws of those Princes that succeeded, viz. *LL. Æthelstane*. c. 4. Those of *Edgar*, cap. 7. of *Canutus* Par. 2. cap. 2. 23, 54, 61. Par. 1. 20. King *Æthelred's LL.* made at the Council of *Ænham*, cap. 26. in the Councils of Sir *Henry Spelman*, pag. 521. And first in the Laws of King *Æthelstan*, we read thus. And se cƿædon be hlaƿorð rýppan. ꝥ he ƿære his feoper rýlðig.

* This is styled *Lýninger penƿýlð* the King's Weregild, the whole of which *Chap. 4.* was valued at 30000 *Thrymsa's*, 15000 whereof were on the account of his Were, and 15000 for his *Cynedome*. The Were was paid to the King's Family and Relations; the *Cynebot* was paid to the People of the Land; the first being a Compensation made to the King's Kindred for the Loss of their Kinsman; the other to the Subjects for the Loss of their King.

gif he hit ætſacan ne mihte. oþþe
 on þam þpyrealðan opðale ful pape.
 “ Likewise we declare concerning Trai-
 “ tors to their Lord, That such an one
 “ shall forfeit his Life, in case he cannot
 “ clear himself, or in case he be found
 “ guilty by the three-fold Ordal. The
 “ next Instance is the seventh Chapter
 “ of the Laws of King *Edgar*, towards
 “ the End.

7 gerece ge æbena ðeop ꝥ ꝥ he gerece
 oþþe ge þe on hlaforðe gemet ry. ꝥ hi
 næfre peopþ ne gerecen. “ And let the
 “ open Thief (or Robber) and he that is
 “ convict of Treason, petition how they
 “ will, they shall never petition so as to
 “ obtain Life.” The twenty third of
Canutus's secular Laws has the same Con-
 clusion word for word. The fifty fourth
 Chapter of the same Laws contains as
 follows. Líf hpa emb cýninge oþþe hla-
 forðe rýppe. ry he hiſ peoper rcýlðig.
 7 ealler ðær ðe he aȝe buton he ȝa to
 ðpyrealðan Opðale. “ If any one shall
 “ plot against the Life of the King, or
 “ of his Lord, let him forfeit his Life, and
 “ all that he hath, unless he undergo the
 “ three-fold Ordale.” Observable in like
 manner is the sixty first of the same secular
 Constitutions. Ður bpec. 7 bæpneȝ 7 open-
 ðýſſ. 7 æbenemopp. 7 hlaforðſſice. æf-
 ter peopulð laga iſ botleas. “ Burglary
 “ and

“ and burning a House, and Open-theft,
 “ and open Murder, and Treason, are ac-
 “ cording to secular Laws beyond Re-
 “ demption or Satisfaction.” The next In-
 stance is that in the twenty sixth Canon of
 the Council of *Ænbam. Con. Spelm.* p. 521.

7 gýf hpa ýmbe Lýninger feop
 rýppe. rý he hý feoper rýlðig. 7 ealler
 þær þe he age. gýf hit him ongeroðoð
 feopðe. 7 gýf he hinelabian wille 7 mage.
 ðo þ mid þam ðeoperstan aðe. oððe mid
 þnyfealdan Orðale. on Engla lage. 7 on
 Dena lage be þam þe heopa lagu gý:

“ If any one plot against the Life of
 “ the King, let his Life be forfeited, and
 “ all that he possesses. If it be deny'd by
 “ him, and he will or can clear himself, let
 “ him do it with the most solemn Oath,
 “ or by the threefold Ordale, within the
 “ *English* Dominions; and in the *Danish*
 “ Territories according as their Law is.

And as the Severity of the *Saxon* Laws
 to deter Men from Treason and Treache-
 ry, was as great and just as could well be
 provided: So were their Exhortations no
 less encouraging to true Allegiance and
 Loyalty. Of this the twentieth Chapter
 of the Ecclesiastick Constitutions of King
Canutus gives us an ample Testimony.

Uton ðon eac swa gýf þe læpan wilað.
 uton beon a upum hlaforðe hold. 7 ge-
 tnype. 7 ærfe eallum mihctum hý purp-
 rýper

rciper pæpan. ⁊ hys willan geþeowcan.
 for þam eall þe we for riht hlaford
 helpe doð. eall we hit doth us sylfum
 to mycelpe þearfe. for ðam ðam bið
 God hold:

“ Go to, let us do what we would still
 “ have you learn ; let us always be true
 “ and faithful to our Lord ; and let us
 “ ever with all our Might, be careful of
 “ his Honour and do his Will. For what-
 “ ever we do out of true Faith and Alle-
 “ giance to our Lord, we do it all for our
 “ own manifold Advantage ; for that in so
 “ doing, we are faithful to God.” And to
 give you one Instance at least, that their
 Practice was answerable to these Precepts
 of ancient *English* Loyalty ; we may con-
 sult the *Saxon Annals* in the Year 755,
 where we have this Account, That *Cyne-
 nulf* King of the *West Saxons*, being sur-
 prized and surrounded in *Merantune* by
Cynebeard the Brother of *Sygebright*, whom
 he had disseised of his Kingdom ; and
 endeavouring to force his way thro’ the
 Rebels, and make his Escape, he was first
 very much wounded, and afterwards bore
 down and kill’d by the Conspirators. At
 length the King’s Thanes, *i. e.* the Barons of
 his Realm, who had been with him in
 the House, hearing of the Tumult, every
 one hasten’d to the Place in the best man-
 ner that he could. But *Cynebeard* imme-
 diately

diately makes Proposals to them of Life and Money, to which none of them wou'd agree; but continu'd every one of them fighting against him 'till they were all slain, but one *British* Hostage, who was very sore wounded. In the mean time the King's Thanes who were at Home, having heard of the King's Death, took their Horses next Morning, and rode to the place, viz. *Ofric* his Ealdorman, and *Wiveoth* his Thane, and the rest of the Men that were left behind him, and met *Cynebeard* in the Town, where the King lay murdered; and finding the Gates lock'd against them, they made up to them. Then promised he to give them their own Laws, their Money and Estates, provided they would give him the Kingdom: He told them moreover, that their Relations were with him, and would not forsake his Interest. But they answer'd, that they knew no Relation that ought to have a greater share in their Affection, than their Lord; and that they never would submit to follow his Murtherer, &c. This was a very signal and noble Testimony of true *English* Fidelity and Loyalty, which it seems did not cease with the Death of their Lord, nor was to be corrupted by any Bribes or Proposals; but they resolv'd to pursue the Murtherers, 'till they had avenged their Master's Blood,

or themselves perished in the Attempt. Nor were these Notions of Loyalty only of *Saxon* Growth, and the Fruits of those dark Times (as some are pleas'd to call them) but they out-lived the Conquest. For King *William* having distributed those Lands amongst his Followers and Adherents, which he had obtained by the Sword; took Care to bind them to him by such Assurances, as were most likely to secure him in the Government, whereof his Arms had given him the Possession. And as this gave Original to those known Tenures which succeeded to so great a Share in the new Constitution introduced by the *Normans*; so the Considerations and Conditions upon which those Tenures were made, are expressed in the LII. Statute of that King. *Statuimus etiam ut omnes liberi homines fœdere & sacramento affirmant, quòd intra & extra universum Regnum Angliæ (quod olim vocabatur Regnum Britannia) Willielmo Regi Domino suo fideles esse volunt, terras & honores illius omni fidelitate utique servare cum eo, & contra inimicos & alienigenas defendere.*

“ We ordain likewise, that all free Men
 “ affirm by Covenant and Oath, that
 “ both within, and without the Kingdom
 “ of *England*, once called the Kingdom
 “ of *Britain*, they will be faithful to
 “ their Lord King *William*; that they
 “ will

“ will every where together with him,
 “ maintain his Lands and his Honours
 “ with all Fidelity, and defend him a-
 “ gainst Enemies and Foreigners.” And
 “ again, Stat. LIX. *Statuimus etiam &*
firmiter precipimus, ut omnes liberi homines
totius Regni nostri predicti sint fratres con-
jurati ad Monarchiam nostram, & ad Reg-
num nostrum pro viribus suis & facultatibus
contra inimicos pro posse suo defendendum,
& viriliter servandum, & pacem & digni-
tatem coronæ nostræ integram observandam,
& ad judicium rectum & justitiam constan-
tèr omnibus modis pro posse suo sine dolo,
& sine dilatione faciendam. Hoc Decre-
tum sancitum est in Civitate London.

“ We ordain also, and firmly com-
 “ mand, that all the Freemen of our
 “ whole Kingdom aforesaid, be sworn
 “ Brethren for the utmost Defence, and
 “ manful Preservation of our Monar-
 “ chy, and our Kingdom, with all their
 “ Might and Means against our Enemies,
 “ and for the entire Observance of the
 “ Peace and Dignity of our Crown, and
 “ for the constant Performance of right
 “ Judgment and Justice by all means pos-
 “ sible, without Deceit or Delay. This De-
 “ cree was enacted in the City of *London.*

“ And after King *William*, let us
 come to his Son King *Henry's* Laws, as
 they are judg'd to be by some; or rather
 to

to that Commentary upon the Law of those times, which by others has been thought to have been made in the time of King *Henry* the Second, and indeed with greater Shew of Probability ; where Chap. XLVII. the sixty first of King *Canutus's* secular Constitutions is entirely repeated, with some Addition, *De Furto & Murdro, & proditione Domini, vel Robaria, & Utlagaria, & Husbreche, & Bernet, & Falsaria, & causis capitalibus vel criminalibus nemo querit consilium quin implacitatus statim perneget, sine omni petitione concilii cujuscunque nationis vel conditionis, sit, &c.* And afterwards Chap. LXXV. among many other things to the same purpose, we have this severe Censure of Disloyalty. *In omnibus enim humanae pravitatis excessibus medicina salutaris fomenta prolata sunt, præter Traditionem Domini, & Blasphemiam Spiritus Sancti, i. e. habere cor impænitens quod juxta verbum Domini non remittetur alicui, vel in hoc sæculo vel in futuro.* “ In all other
 “ Excesses of human Wickedness, the
 “ Relief of some wholesome Remedy may
 “ be procured, except *Treason against one's*
 “ *Lord, or the Sin against the Holy Ghost,*
 “ *i. e. an impenitent Heart,* which accor-
 “ ding to our Lord's Word, shall neither
 “ be forgiven to any one in this World, nor
 “ in that which is to come, &c.

To

To these Sir, let me add what has been deliver'd concerning *Treason*, by the famous *Ranulphus de Glanvilla*, lib. 1. c. 2. and lib. 14. c. 1. who is said to have been * Lord Chief Justice to King *Henry* the Second, and who wrote at the time when the Commentary was made, which goes by the Name of King *Henry* the First's Laws, if himself was not the Author. *Henry de Bracton*, who lived in the Reign of King *Henry* the Third, is not more reserv'd in his Detestation of Disloyalty, and in asserting the Royal Prerogative. He tells us, *Sunt etiam sub rege liberi homines, & servi ejus potestati subjecti, & omnis quidem sub eo, & ipse sub nullo, nisi tantum sub Deo. Parem autem non habet in regno suo, quia sic amitteret preceptum cum par in parem non habeat imperium. Item nec multò fortius superiorem, nec potentiorē habere debet, quia sic inferior esset sibi subjectis, & inferiores pares esse non possunt potentioribus?* " There are also under the
 " King Free-men and Servants subject to
 " his Power, and every one is indeed under him, and he under none; but only under God. Moreover he ought not
 " to have any one equal to him in his
 " Kingdom, for so he would lose his Com-

* See the learned *Selden's Dissertatio ad Fletam*.
 P. 454. §. 11.

" mand;

“ mand ; since no Equal hath Command
 “ over his Equal. And the Argument
 “ holds much stronger, that he ought not
 “ to have any one his Superior, or more
 “ powerful ; for then must he be inferior
 “ to those who are his Subjects ; and In-
 “ feriors cannot be equal to those who are
 “ more powerful.” And having said ma-
 ny things of good Instruction and Advise-
 ment, relating to the Duty of a King, he
 at length concludes with these remarkable
 Expressions, as containing the utmost Re-
 medy against him, in case he should fall
 short. † *Locus erit supplicationi, quòd fa-
 ctum suum corrigat & emendet, quod qui-
 dem si non fecerit, sufficit ei ad pœnam,*
quòd Dominum expectet ultorem. Nemo
quidem de factis suis presumat disputare,
multo fortius contra factum suum venire.
 “ There will be room to beseech him,
 “ that he would correct and amend what
 “ has been done : Which if he doth not,
 “ it is sufficient for his Punishment, that
 “ he must expect that God will execute
 “ Vengeance. But let no one presume to
 “ call his Actions in question ; and what
 “ is much more, to oppose what he doth.
 These slavish Notions of absolute Passive
 Obedience and Non-resistance, miscall’d
unlimited arbitrary Power, so much decry’d

† *Brañon lib. 1. De rerum divisione §. 5. cap. 8.*

in those last Ages, were thought to be good Law, by one of the greatest Lights of that Profession in those Times. And in the Reign of a King, who by the vexatious Encroachments of his rebellious Subjects, and perjur'd Barons, at the Instigation of the Pope, was obliged to make greater Concessions, and more to the Dishonour and Disadvantage of the Crown, than any that had been granted by his Predecessors. About the same time lived *John le Breton*, a great Lawyer and Judge, promoted to the See of *Hereford* by King *Henry* the Third; unless with Mr. *Selden*, we shall affirm *Bracton*, and *Bryton* or *Briton* to have been the same; who hath also left us his Opinion, in relation to the Matters we have been speaking of, in his eighth Chapter, which bears the Title *De Treson*; concerning which there is yet more to be seen in the Book *Fleta, de crimine læsæ Majestatis*, cap. 22. p. 31. To which we may add all those Statutes that have been made relating any way to this Point, and which concern the Royal Prerogative of the King, as the Minister of God; and which being collected, would take in a noble Field of Learning, if adorned and illustrated with the Reasonings and Discourses of our best and most able Lawyers orderly apply'd, and deduced thro' the several Ages to these Times; a Work worthy

worthy to be undertaken, and to be accomplished with all the Art and Industry, and Accuracy of a Person of highest Character, and greatest Ability in the most noble Profession of the Law.

Now notwithstanding all these Authorities, that have been alledged in Affirmance and Commendation of the Antiquity and Force of our *English* Loyalty, and the just Zeal and Piety of our Clergy, in the Maintenance and Assertion of it, so far as it becomes their Character: There are those who stick not to bring in their Charge with much Vehemence and Opposition in the Case, as if owning such Allegations, were betraying the Liberties of the Subject, and opening a Gap to an impetuous Inundation of Sovereign Power, not to be limited or restrained by any Provision of Laws; but that lays the People open in their Persons, Rights, and Properties, to every Invasion and Encroachment, by which it shall seem good to the Will and Pleasure of the Prince to molest and oppress them, and which entrusts him with a Liberty, whereby because he *may*, they falsely and injuriously suggest, that he *will* undoubtedly destroy them. And that all these things are yielded unto, without a due Regard to that original Compact and Agreement made between the Prince and People, upon

D

which

which the Foundations of our Government have from Time immemorial been grounded and fixt.

Which Pretences, how little Reason forever they have in them; yet because they may seem plausible to some who are willing to hearken to them, we may not refuse them an Answer.

And first, It is very weakly pretended, and with no good Meaning, That such Loyalty and absolute Passive Obedience, as is asserted here, and to which our *English* History and Laws in every Age give so much Credit and Confirmation, ascribes to our Monarchs any more Power of invading the Right and Property of the People, than is in any other Form of Government; Democracy itself not excepted. Certain it is, that a Trust some where or other must be lodg'd, as with us it is in the King or Queen; which we may in Charity and in Justice as well suppose, will be employed by them for the Maintenance and Preservation of the Laws, as for the Breach of them; unless we can conceive, that Sovereign Princes are the only Persons without Faith and Honour, which is not only a very undutiful and irreverent Thought, but likewise unreasonable. Besides these Gentlemen forget what is a peculiar Happiness of our Constitution; that Civil Resistance is allow'd

to

to Subjects either by the King or his Ministers; insomuch that the poorest Man wronged by them, may have Remedy against them at Law, in the King's own Courts; a Privilege I believe hardly to be found in any Republick whatsoever. The Succession of our Kings, how dreadful soever the terrible Noise of arbitrary Power, may have made them to some, has not afforded us such a Series of cruel Persecutors and Tyrants, but that by the admirable Bounty, and infinite Concessions which the Kings of *England* have in their Wisdom, with the Advice and Assistance of their great Councils, granted to their People, we are possess'd of such an excellent Body of Laws, as is perhaps not to be parallel'd in all the World. And we may challenge the greatest Patriots of Disloyalty, to charge the Maintainers of the Royal Cause against all Force and Coercion, with any such Absurdities by a fair and legal Evidence, as they pretend to fasten upon them. For it is agreed unto by all, that the King is bound by the most solemn Obligations to keep his own Laws. The Oath he takes at his Coronation, is an Obligation of as great Force, as can possibly be enter'd into by any inferior Person. But herein lyes the Difference: The Subject, for Breach of Duty, must answer to the Prince, and is

corrigible by the Laws; but the Sovereign is liable to no human Force of external Coercion from any Superior, much less from his own Subjects: And in case he violates his Obligations, he is accountable to God alone. *Ipsæ sub nullo, sed tantum sub Deo; & sufficit ei ad pœnam, quod Deum expectet ultorem. Bract. ut supra.*

As for the Pretences of original Compact, so much magnified in the airy Imaginations of some Men, we must consult with the Antiquaries of *Utopia*, if we hope for Satisfaction in this Matter; which Antiquaries when once they shall be found, we may then expect a Sight of the original Contract. So that it was a very just and pertinent Enquiry of my Lord Chancellor of *Ireland*, in his learned and eloquent Defence of Loyalty, in the late famous * Tryal, to demand as he did. "When that original Contract was made: was it, says he, before *Magna Charta*? If so, why not comprized in it? All the Liberties the Subjects then laid Claim to being included in that Act; and 'tis much a thing of that Moment, and which was the Source and Spring of all their Liberties, should not be so much as mention'd in it. I never met with it in any of our Law-Books, in my li-

* The Tryal of Dr. *Henry Sacheverell*, p. 44.

" the Experience. I never heard it urged:
 " in any Court before. Was it before the
 " Statute 25 E. 3? I never knew it plea-
 " ded to any Indictment for High Trea-
 " son, nor objected to take off, or ener-
 " vate the Force of that Statute; and our
 " Law Books being silent in it, I think
 " it too tender a Point for us, who are no
 " Members of any part of the Legisla-
 " ture, to meddle with. And therefore,
 " till the Legislature have declared what
 " the original Contract is, and determin'd
 " what Act of the supreme executive
 " Power shall amount to a Dissolution
 " of that original Contract, and discharge
 " the Subjects from their Allegiance, the
 " Law stands still upon the Foot of the
 " 25 of E. 3. and all Resistance except
 " in the Case of the Revolution, is still
 " Treason within that Act." I was pleas'd
 " to see this Point argued with so much
 " Force of Reason, and Power of Eloquence;
 " and that so great an Authority had con-
 " firm'd that very Opinion of this wild
 " Pretence, which I had entertain'd for
 " many Years: For as his Lordship observes,
 " there is no Recital of it in *Magna Charta*;
 " nor did I ever hear of any *Vidimus* or *In-*
 " *speximus*, that signified it to be contained
 " in any other Charter or Act of Parliament.
 " If we look backward to the Times of
 " King *Henry* the First, King *William* the

Second and First, when the Restitution of King *Edward's* Laws was demanded by their *English* Subjects, and in part granted, there is no News of it; if we retire still farther from King *Edward the Confessor*, to *Æthelbert* the first *English* Christian King, there are no Traces of it to be found. 'Tis true the Prefaces of some of their Laws shew, that they condescended to take the Advice and Counsel of their wisest Men, and Nobility in the framing of them; but this is not in all of them, and there is no mention of it in these of *Æthelbert* the most ancient. In the Entrance to those of *Eadric* and *Hlotharius*, it is only said, that they added to the Laws of their Predecessors. *hy eccon þa æ, þa ðe heopa alsoþar æn gepophtran*. In those of *Wibred* King of *Kent*, we find *Byrhtwald* the Archbishop, and *Gyrmund* Bishop of *Rochester* only named. In the Prologue to *Ina's* Laws, we have indeed a kind of Parliament of the Clergy and the Nobility, to assist the King with their Advice; and the like we find in the several Prologues to the Laws of the succeeding Kings, as may be seen at large in the Editions of Mr. *Lambard* and *Wheelock*, and in *English* by Dr. *Brady*; but in none of the Prefaces of these Laws, or in the Body of the Laws themselves can I meet with this

this *Original Contract*. The Promise made by the King to the People at his Coronation, was very solemn and important; but I think will not amount to such a Contract; for tho' he gives them Assurances of their Privileges, yet he does not covenant with them in Point of Failure on his Part, to make himself subject to their *Animadversion*, much less to be *imprison'd* or deposed by them, which had been making them his Superiors; but owns himself to be alone accountable to God. The Oath it self, as it was deliver'd to King *Ethelred* by *Dunstan* the Archbishop, may be here subjoined in our modern Stile, from a Transcript of the original Writing out of which the Archbishop dictated it to the King in these Words.

“ In the Name of the Holy Trinity, I
 “ promise three things to Christian Peo-
 “ ple, and to my Subjects. First, That
 “ God's Church, and all Christian People
 “ within my Dominions, shall have true
 “ Peace. Secondly, I forbid Robbery,
 “ and every thing that is unjust to Men
 “ of all Degrees. Thirdly, I promise,
 “ That Righteousness and Mercy be pre-
 “ served in all Judgments. That the gra-
 “ cious and merciful God, thro' his eter-
 “ nal Mercy may forgive us all, who li-
 “ veth and reigneth, &c. This ancient
 Form is exhibited to us, in the Preface to

Dr. *Hickes's* Grammar, published in Quarto at Oxford, Anno 1689. where we find these words added, I suppose by the Archbishop who crowned him. " That Christian King, who observes these things, " he procures to himself worldly Honour, " and he will have the eternal God propitious to him, both in the Life that " now is, and in that everlasting one " that never fails. But if he violates that " which he has once promised to God, " then shall it grow still worse and worse " with his People, 'till at length all turns " to Ruin: Unless he make Reparation " in his Life. Oh beloved Lord! above " all things take diligent heed to your " self. Consider this very frequently; " That you shall lead forth, and shew at " the Judgment of God, that Flock over " which you were made Shepherd in this " Life; and then will know, that you " now govern that Flock that Christ purchased with his Blood.

This is followed by an Extract out of the Capitular of *English* Canons, with this Title. *Be eopðlicum cyninge, i. e. Concerning an earthly King*; which is to this Purpose. " It is the Duty of a consecrated King, to judge no Man unrighteously; to protect and defend the Widow, the Fatherless, and the Stranger; " to prohibit Theft, to punish Adultery, " and

“ and dissolve incestuous Marriages; to
 “ root out, and extinguish Witches and
 “ Sorcerers; to banish out of the Land all
 “ Parricides and perjur’d Persons; to feed
 “ the Poor with Alms; to have aged,
 “ wise, and sober Men for his Counsellors,
 “ and to appoint just Persons to be his
 “ Ministers: Inasmuch as, whatever In-
 “ justice shall be done by them thro’ his
 “ Fault, for the same he (the King him-
 “ self) be answerable at the Day of Judg-
 “ ment.” There are likewise other Ca-
 nons in the *Warcester Code*, declaring the
 Regal Office, with many more Particu-
 lars which might properly enough be in-
 serted here. But in none of all these Re-
 cords of Antiquity, can we meet with a-
 ny thing, upon which to ground any such
 mutual Compact betwixt King and Peo-
 ple, as our rebellious Demagogues con-
 tended for. For tho’ we do in the Prefa-
 ces before cited observe, that those anti-
 ent Kings made their Laws with good
 Advice, and tho’ in the Exhortation and
 Canonical Directions concerning the Office
 of a King, there are many pious and wise
 Admonitions and Instructions, in Relati-
 on to the Welfare both of King and Peo-
 ple: Yet in none of these authentick In-
 struments of ancient Times, can any just
 Matter be discover’d, from whence to infer
 any such Covenant or Contract, from
which

which a crowned Head, for any real or pretended Male Administration, shall be render'd incapable of governing; or responsible in form of a Criminal to any coercive Power of the People. And indeed the wisest of those who assert the original Compact, are oblig'd to acknowledge, that there are no visible and apparent Footsteps of it in Antiquity, and are forced therefore to have Recourse to imaginary Suppositions. Thus I perceive a very great Sage of the Law, scarce inferior to any in the Age in which he lived, but (it may be) too much addicted to this Notion, or rather Prejudice of the original Contract, confesseth, that the original Institution of Government, "which was first settled by Consent of the Govern-
 "ors, and the governed, was difficult
 "to be met with in ancient Governments. And therefore he is obliged to betake himself to "Custom and Usage, which he
 "tells us, carries in itself a facile Consent
 "of the Governors and the Governed, or
 "is at least an Evidence or Interpretation
 "of the original Institution of the
 "Nature of the Government, or of the
 "initial Part between the Governors and
 "Governed." In another Place he declares, "That Liberties granted to the
 "People in latter Times, were not so
 "much new Grants of new Liberties,

" as Restitutions of those very Liberties;
 " which by the primitive and radical
 " Constitution of the *English* Government,
 " were of Right belonging to them;
 and having instanced in some Particulars,
 he asserts, that " These are the original
 " Right and Liberties of the Subject;
 " and that we have as great Reason to
 " conclude them to be Parts of the origi-
 " nal and Primitive Institution of the
 " *English* Government, by their long
 " Usage and frequent Concessions of Prin-
 " ces, in so long and continued Series of
 " Time, as if an authentick Instrument
 " of the first Articles of the *English* Go-
 " vernment, were extant,

Here is a plain Concession, that there
 is no where extant any authentick Instru-
 ment of that original Compact, with the
 Notion whereof some Men seem so much
 to please themselves; so that the Autho-
 rity upon which is founded this great
Asylum of the popular Advocates, stands
 only upon Implication and Supposition;
 which in Cases of far less moment Men
 will not so easily admit. And it is not
 at all to be doubted, but upon a maturer
 Judgment, and exacter weighing of things,
 the Implication ought to bear a greater
 Stress on the other side. For it is with
 far greater Probability imply'd, and much
 more rationally supposed, that no such

Contract with the People was ever made; because there is no where mention of it, and because there is neither Fact, nor History to support it; especially since there are plain Evidences from the Nature of Regal Government, from the Holy Scriptures, from our ancientest Laws and Histories, to evince that no such Compact with their People ever was or could be engaged in, or become obligatory upon our Kings, as made them accountable to any Superior but God alone. They have no Power to enter into any such Compact with the People, so as to render it valid, because (as our Laws declare) they receive their Commission and Authority from Almighty God; and cannot act under any Commission from the People, without unkinging themselves, and doing what absolutely tends to the Disherison of the Crown, and (I may add) without disowning God's Sovereignty, who alone is King of Kings, and Lord of Lords. Such a Dispensing Power to dissolve that Form of Government which God Almighty has invested them with; and to set up such a new and opposite Institution as shall alone depend upon, and be derived from the People, whom God has made subject to them, all wise and unprejudic'd Men will think; may as justly and as reasonably be disputed, at least as the dispensing with any human

man Laws, of what Denomination, and of how great Obligation soever.

If after all, nothing more be intended by the original Contract, but that the King is bound in Conscience by his Coronation Oath, to do no Wrong himself, and to see that Justice be duly administer'd, and equally to all his Subjects; that he is not accountable for Breach of that Obligation, to any but God alone. "That his Person is sacred, and not under any external Coercion, nor to be arraigned by his Subjects, for Violation of that sacred Oath." If these things, Sir, be admitted, as I find by one of the greatest and wisest Patrons of the Compact, they are allow'd; I see nothing that can be infer'd from such a Compact, by which those popular Schemes of Anarchy can be supported, for which it is so frequently, and as it seems, impertinently alledg'd. For all this will imply no more, than is yielded unto by the highest Asserters of Loyalty, and the Monarchical Rights, and is indeed agreeable to the Nature of our Constitution from its very Original; and consonant to all Antiquity, and deducible from all the Instances that have been laid before you for the Defence of Loyalty, both before and since the Conquest. The *Saxon* Laws, those of the Conqueror, and of the Kings that succeeded him; and

Bra-

Bracton, Briton, and Fortescue, where he speaks of *Royal and Politick Government*, say the same thing; and our greatest Lawyers and Statesmen ever since, say neither more nor less. So that if nothing more be intended by original Compact, than is here allowed; it is not easy to perceive, why with so much Triumph and Clamour, the Authority of it is asserted, when occasion happens for any popular Extravagances to be favour'd.

But that nothing more is intended by them, is a vain Pretence and Abuse. They use the Words for an Amusement, to cast a Mist before the People's Eyes, to blind, and as a Bait to ensnare them: Those who will receive the Compact, in the Sense that is fitted to their Designs, such they encourage to extend it to the utmost Consequences of Rebellion: Where the Bait will not so easily go down, there they give out, that nothing is signified more, than what is consistent with the justest Notions of Loyalty. I must confess, I could never perceive to what good Ends this Notion of original Contract is trump't up; since it may be feared the first News that we have had of it (however it may have afterwards come to pass, that some grave, and good, and learned men have been imposed upon by its seeming Plausibility) has been from Rebels, to serve the
Ends

Ends of Sedition in the Times of Rebellion and Tumult, or in Times antecedent and introductory to great Disorder and Trouble. And as it was a just Saying, founded upon good Reason and Experience, by that wise and learned Prince King James the First, *Nullus Episcopus, nullus Rex*; so it is very remarkable, and may very justly be inferr'd, that the Enemies of Monarchy and of Episcopacy are the same; and that those who have born an evil Will to temporal Princes, have seldom had any good Affection to the spiritual Kingdom of Christ; and that the same Methods and Arguments that have been made use of to undermine the one, have been employ'd to ruine the other. Thus the *Utopian* original Contract must be appeal'd unto, to shake the Thrones of Princes, and to overturn Regal Government. And the Independency of the People in a spiritual Capacity, and pretended Power in them to gather themselves into Congregations, and to chuse for their Pastor whom they please, is asserted to throw down the Divine Right of Episcopacy, and to lay aside that Order of Men, whom our Saviour had appointed to be the chief Officers under him their spiritual and heavenly Lord and King, for the perpetual Government of his Church. So that it is beyond all Contradiction manifest,

fest, that the Pretence of Compact and Agreement enter'd into, (no body knows when nor where) is made the great Engine of Rebellion and Discontent, not only in the Civil Government, but in the Spiritual. Of how great Use this has been to Mr. *Selden* and his Fellow-Labourers, and such as have acted under their Directions in working upon it, and what Praise they have deserved for their Labour, perhaps it is easy to determine. It may with Assurance, and without Vanity be asserted, that they have not been able with the most artful and dexterous Application they could make of this dreadful Engine of theirs, to batter down that Strength of Authority in our ancient, as well as more recent Histories and Laws, upon which the Regal Government, and Prerogative of our Kings is supported and establish'd; or to shake the Foundation of those Evidences of Holy Scripture, and of the Writings of the Primitive Fathers, and of Ecclesiastical History, from the earliest Times, upon which the Church in the Divine Institution of Episcopacy is built, and fixt, as upon a Rock, from which, according to our Saviour's Promise, the Devil with all his Accomplices and Powers, with all his Compacts and Combinations of what sort soever they be, shall not be able to cast it down.

I have

I have said so much of original Compact, not for the Agreeableness of the Subject: But to observe the Occasion they have of boasting, who place so much Confidence in it, I dare aver that no good Man will envy them their Glorizing; and dare be positive, that it is the Wish and Advice of every wise and prudent Man, that we do not permit it at any time to be made an Instrument of. deceiving.

But, Sir, to pursue my Argument.

I cannot omit observing here, that it was so far from being contrary to our ancient Constitution for Clergy-men to be employ'd in secular Matters, that formerly they were for the Generality the only Men of Learning, and Skill in Civil Affairs, the Laity for the most part being content to excel in military Accomplishments. How far the Clergy were entrusted in Affairs of State in the *Saxon* Times, has in good measure been already declared, from the Precedency they had, and which the Ecclesiastical Concerns had before the Secular, not only in the County-Courts, but in the great Councils. Which Preference, tho' it was given them on account of their sacred Character; yet was there also a Regard had to their Skill and Knowledge in the Laws. We have two very memorable Instances of this kind, immediately after the Conquest; the one
in.

in that celebrated Court which was held at *Pinendene*, and which lasted for three Days; in which the Cause between Archbishop *Lanfranc*, and Odo Bishop of *Bai-eux*, Earl of *Kent*, and the King's Brother, was decided. To this famous Court were assembled all the *French* Men, but more especially the *English*, who were skill'd in the ancient Laws and Customs. Among the rest it is more particularly remarkable to our purpose, that * *Ægelric* Bishop of *Chester* was by the King's Order brought thither in a Chariot, to teach and explain the ancient Laws and Customs, he being a Person of great Years, and most knowing in the Laws of the Land. The other Instance is that of *Wolstan* Bishop of *Worcester*, who was consulted by *Anselm* Archbishop of *Canterbury*, about an ancient Rite and Custom of the Archbishops, of whom *Eadmer* the Monk, and nominated Archbishop of *St. Andrews*, tells us, † That

* *Ægelricus* Episcopus de *Cicestra*, vir antiquissimus, & legum terrarum sapientissimus, (qui ex præcepto regis adjectus fuit, ad ipsas antiquas legum consuetudines discutiendas, & edocendas, in una quadriga. *Vid. Seld. Spicil. ad Eadm.* p. 191. & *Platit. de Pinendene*, in *Textu Ross.* fol. 168. a.

† Supererat adhuc beatæ memoriæ *Wolstanus*, Episcopus unus & solus, de antiquis Anglorum Patribus, vir in omni religione conspicuus, & antiquarum Angliæ consuetudinum scientia apprime eruditus. *Eadm. Hist. Nov. lib. 1. p. 22. lin. 35.*

at that time survived *Wolstan* Bishop of *Worcester*, the only remaining Bishop of the *English* Fathers, a Person very conspicuous for the Integrity of his Religion, and of the first Rank for his Knowledge of the ancient *English* Customs. Of how great Skill and Authority in these Matters the Clergy have been from that time to the Reformation, not to mention the many other Employments they have been engaged in, and perform'd with great Faithfulness and Ability, we need only to consult the History of the Lords Chancellors and Keepers of the Great Seal. Nor since the Time of the Reformation, has it been thought so contrary to the Original or Safety of our Constitution, to entrust Clergy-men with Civil Employments of the highest Character; But that several have been thought worthy to be entrusted with them, who have acquitted themselves as worthily. Not to mention Bishop *Williams* and Bishop *Juxon*, and others who have been judg'd capable, by their profound Knowledge in the ancient Laws and Customs of the Realm; I shall observe two or three later Instances, viz. Mr. *Sheringham*, whose excellent Treatise, in which he defended the Rights and Privileges of the Crown in the worst Times, was approv'd and licens'd by all the twelve Judges. Dr. *Serb Ward* Bishop of *Salum*,
 who

who for his great Skill in the Civil Law, and the Laws of the Land, was design'd by King *Charles* the Second to be made Lord Keeper of the Great Seal. The late very learned Dr. *Stillingfleet* Bishop of *Worcester*, whose exceeding great Capacity, and Merit for Places of the highest Trust and Honour, no Man without Envy can disown, who is in any degree acquainted with those things, which with most admirable Learning and Wisdom he hath written, and spoken, concerning our * *English* Constitution, supposing the Reader of his Writings of sufficient Understanding, to comprehend the Force and Value of so much Judgment and Learning. To these, Sir, let me add the anonymous Author of a Discourse, entituled, *The Harmony of Divinity and Law*; in which, and in the Preface before it, as the learned Writer has shewn his own great Knowledge in the Laws; so in the latter he has observ'd the great Usefulness of this Knowledge to the Clergy, which is so very suitable to our present purpose, that I cannot forbear citing a Passage or two from thence.

“It is pity, says he in his Preface,
 “that any Minister of the Church of
 “*England*, should want so much Insight
 “into the Laws, as not to be able to shew

* See his Ecclesiastical Cases, and Speeches in Parl.

“ the

“ the knavish, or blind Side of a Com-
 “ mon-Wealth's Man to the People, when
 “ he pretends to Law.” And having gi-
 “ ven some Instances to illustrate this Point,
 “ he proceeds thus. “ I have chosen these
 “ few Instances among many more, to
 “ shew how the Gentlemen of the Com-
 “ mon-Wealth Faction are apt to pervert
 “ the Laws; and how requisite it is for
 “ Men of Letters, but more especially
 “ for Divines, to put themselves in a
 “ Capacity, by looking into the Law, to
 “ defend the Government and the King's
 “ Prerogative against them, who fear no-
 “ thing more, than that the People should
 “ have such Ministers, as understand the
 “ Laws of the Land. They take advan-
 “ tage from our Ignorance in the Laws,
 “ to make the People believe, that we
 “ are for arbitrary Power: Whereas could
 “ we shew the People, that our Sermons
 “ about Subjection and Obedience to Sove-
 “ reign Princes, perfectly agree with our
 “ Laws; instead of thinking that we had
 “ a Design to enslave them, they would
 “ presently see, that our Republican Ad-
 “ versaries are the Men, who themselves
 “ are guilty of that Design. Wherefore,
 “ seeing the Ministers are misrepresented
 “ to the People, by the Artifice of these
 “ Men, for *Sibbords* and *Manwarings*,
 “ who are for arbitrary Power; it con-
 “ cerns

“cerns them all to study the Laws so far,
 “as when they preach up Obedience to
 “the King, as God’s Vicegerent, to let
 “the People see, they preach in the ve-
 “ry Stile of the Law: And besides the
 “double Service they will hereby be en-
 “abled to do the Government, they will
 “secure themselves in Company from the
 “Insults and petulant Attacks, which o-
 “therwise they must endure from every
 “Puny of a Common-Wealth’s Man, that
 “pretends to Law. The great Ease I
 “have purchased my self by this means,
 “has obliged me to make this Remark:
 “For whereas formerly I declin’d the
 “meeting of such Men, they now decline
 “the meeting of me; and when Chance
 “brings us together, they behave them-
 “selves in a manner very different from
 “what they did before.

“I know my Brethren generally ne-
 “glect the Study of the Law, thinking
 “that it is a jejune Theory, and but “of
 “little Use to a Divine: But if they will
 “set upon the Study of it, beginning at
 “the *Civil*, and passing thence to the
 “*Feudal Law*, they will find it very de-
 “lightful and useful, and that it will
 “render them capable of Conversation
 “with our learned Lawyers, and accep-
 “table Company to them: For as the
 “Study of Theology, and an Insight in-
 to

“ to the Fathers, endears any Lay-man to
 “ a Divine; so undoubtedly a curious
 “ Search into the Law, will endear a Di-
 “ vine to any ingenious and learned Law-
 “ yer, and make him esteem him above
 “ other Men, who *care for none of those*
 “ *things*. I would not be so understood,
 “ as if I would have a Clergy man turn
 “ Lawyer, and make it his Business to
 “ study Law: No, I would only have him
 “ make it his *By-Study*, and acquire so
 “ much Knowledge in it, as a Scholar
 “ would desire of the Theory, and a
 “ Gentleman in the Practice thereof.”
 And towards the latter End of the Dis-
 course, p. 67. “ From what I have deli-
 “ ver’d, says he, upon this Subject, you
 “ may perceive what a deep Tincture of
 “ Rebellion they have, and how foolish-
 “ ly their Disposition to it makes them
 “ prate; who, when they hear a Minister
 “ preach about Subjection and Obedience
 “ to the Sovereign Power, and especially
 “ about *Passive Obedience*, say they would
 “ not have Ministers meddle with the
 “ Government in their Pulpit, or preach
 “ about Matters of Government, but
 “ preach up Christ; as if to preach up
 “ Obedience to the King for God’s sake,
 “ and preach down military Resistance,
 “ were not to preach up Christ. They
 “ may as well say, when they hear us
 “ preach

“ preach up the Duty of Children to their
 “ Parents, or of Servants to their Masters,
 “ that they would not have us meddle
 “ with their Families in the Pulpit, but
 “ preach up Christ; or when we preach
 “ against the false Balance, false Weight,
 “ and false Measure they may as well
 “ say, that they would have us not to
 “ meddle with Trade in the Pulpit, but
 “ preach up Christ: For it is the Duty
 “ of Ministers to preach up all the rela-
 “ tive Duties, and more especially the
 “ Duty of Subjects among a rebellious
 “ People, as most tending to the publick
 “ Good; and they who preach up the
 “ Duty of any one sort of Men, accor-
 “ ding to the Doctrine of the Gospel,
 “ preach up Christ as much as those, who
 “ preach upon the infinite Merits of his
 “ Blood, &c.

But to return to the great Abilities of
 some of the Clergy in secular Affairs, and
 to put this Matter out of farther Contro-
 versy; we have the Authority of the Roy-
 al Suffrage in our Favour. Her Majesty,
 who well understands our Constitution,
 and who is no less tender of preserving it
 entire in all the Ornaments of it, as well
 as its essential Parts, is pleased in Her
 Royal Wisdom to believe, that she shall
 not derogate from either, but add to the
 Strength and Honour of them both, by

lodging her Privy-Seal in the Hands of a Church-man, the Right Reverend, and Right Honourable the Lord Bishop of *Bristol*; a Charge which places Him in a Station of the first Rate, for its high Trust and Dignity, whom her Majesty has been pleas'd to judge in the first Rank of Merit, for an Employment of so great Importance. Her Majesty justly seem'd unwilling in Her Royal Wisdom to permit, that the Name of a Clergy-man should exclude a Person from any distinguishing Marks of Honour, who had acquitted himself with so much Honour and Approbation in his Duty to Her self and Her Predecessor: Nor can She think it reasonable, that the Nation should be deprived of the Service and good Offices of one of the most experienc'd Statesmen in *Europe*, upon no other Objection and Pretence, but that he is a Bishop. I doubt not, Sir, but there are many as well as you amongst the great Lawyers, and also among the Nobility and Gentry, of the same generous Sentiments. Nor are there wanting (I am bold to say) divers others among our Clergy, of very great Capacity for Civil Employments: And it is a good Omen of the Increase of their Number, that Dr. *Gibson* the learned Arch-deacon of *Surrey*, who is another Instance of the Clergy's Ability in this kind, is publishing a great and elaborate

* Work, to instruct his Brethren of the Clergy in that part of our Laws which concern the Church; and has already given us a Specimen of it. Some very useful Instructions of which Nature have been already given to the Clergy by another of their learned Brethren in the first Volume of the Clergy-man's *Vade mecum*.

I cannot close this Argument better, than with part of an epistolary Conversation between Dr. *Hickes*, and a Right Reverend Prelate, who hath distinguish'd himself by his Knowledge in our ancient Histories and Laws. The learned Author, in the Dedication of his *Francic Grammar* to the Right Reverend the Bishop of *Carlisle*, addresses himself in this manner. "About sixteen Years ago
 " or somewhat more, lived that most noble and wise Man, and without Competitor the greatest Lawyer of his
 " Time, *Francis North Lord Guilford*,
 " *Keeper of the Great Seal of England* to
 " King *Charles* the Second, and King
 " *James*; who was pleas'd to converse
 " with me very frequently and familiarly;
 " by which means I had an Opportunity of remembering many prudent
 " Discourses of his, and several things
 " that were spoken by him very succinctly
 " and properly, as being always de-

* Codex Juris Ecclesiastici Anglicani.

firous

" firsous to find my self improved by his
 " Wisdom. But as he was a Person
 " of great Variety of good Discourse; so
 " I remember very well, whilst he was
 " sitting one Evening with my self, and
 " some others who had the Honour of his
 " Acquaintance, he fell into a Discourse
 " of the *Spiritual Nobility*; in which the
 " great Man sadly lamented the Fate of
 " the Bishops, whose Authority for a long
 " time had not been only weaken'd, but
 " in a manner quite lost in the House of
 " Peers; in regard that contrary to the
 " Custom of their Ancestors, who flouri-
 " shed in the foregoing Ages, they had
 " neglected to apply themselves to the
 " Study of the Rolls of Parliament. I
 " remember also, that he would frequent-
 " ly with great Earnestness exhort the
 " more eminent of the Clergy, as well
 " those who were already Bishops, as
 " those whom he knew to be design'd for
 " that Order, that they would exercise
 " themselves Night and Day in the Stu-
 " dy of those Rolls, which he called the
 " Bible of Parliamentary Affairs. Imagine
 " that you have Him for your Counsellour
 " in this Matter, who was the Oracle both
 " of the *Forum*, and of the Senate. Ima-
 " gine you have him, who was always
 " one of the greatest Lovers of the Cler-
 " gy, encouraging you in it with his Ad-

vice ; and at the Instance of so great
 an Example , arise and apply your
 Mind to that Study , for which , by
 your Knowledge of the *Francic, Saxon,*
Dano-Saxon , and *Anglo-Normanic* An-
 tiquities , you are so excellently fitted
 and prepared. Do you, I say, by your
 Example lead your Right Reverend
 Collegues to the Study of the Parlia-
 ment Rolls ; and endeavour with all
 your Industry and Power , that the
 Bench of Bishops , as it is stiled , may
 obtain its pristine Dignity. And that
 that ample Power, and chief Authority
 which it enjoy'd in times past, may by
 your Example and Conduct be brought
 back to its ancient State.

This generous Concern of my Lord Kee-
 per *North*, for the Honour of the Episcopal
 Order in Parliament, is worthy to be thus
 recounted and apply'd ; it is that which dis-
 covers such a Soundness of Judgment, and
 Greatness of Soul, as should make the Me-
 mory of that great Man for ever venera-
 ble with the Clergy ; and is enough to
 put out of Countenance that Spight in
 the Men of little Minds, which is always
 envying and maligning whatever they see
 in any Clergy-man, to be either virtuous
 or honourable.

And now, Sir, to draw towards a Con-
 clusion after giving you the Trouble of

so long a Letter: A great Noise has been
 made by some Men, with the Clamour,
 that the Clergy have nothing to do with
 Politics; and very loud and frequent Me-
 naces have been heard of *Shoes* and *Staves*,
 to be sent to all such of that Reverend
 Body, as should any way treat of Civil
 Matters: And this Method of intimating
 their being banish'd from their native
 Country, and their not being worthy any
 longer to dwell in the Land, has been re-
 ceiv'd with loud Acclamations, and great
 Chearfulness, not only by those amongst
 our selves, who have most exclaim'd a-
 gainst Persecution, but by too many of
 those, who have fled to this milder Climate
 of ours, for Refuge and Security from those
 Persecutions, which they had either felt,
 or with which they had at least been
 threatned abroad; which Persecutions,
 God forbid I should say, they justify, by
 this wicked Instance of their ill Inclinati-
 ons, and severe Conduct towards the *Eng-
 lish* Clergy; tho' there are some who are
 ready to affirm it. But this Menace of Staff
 and Shoes, is such an Indignity put upon
 the Saviour of the World in the Persons of
 his Ministers, as is not fit to be named
 in a Christian Country: For surely no
 Man who believes the Divinity of Christ,
 or reveres the Majesty of his Almighty
 Father, and who dreads his Power, would

dare presume upon the least Intimations of such Usage towards his sacred Ambassadors. And Men must be arrived to a great Degree of Profligacy and Profaneness, when they can take Pleasure in such Threatnings. Nothing can be more unacceptable, or more unworthy of the kind and good natural Genius of the *English* Nation, and of that devout and religious Disposition, which makes it the Praise of the whole Earth: And therefore they are much mistaken in the Inclinations of our People, who think them ready for any Proposals of such barbarous Cruelty towards the Clergy, and which offer such Disgrace to the Gospel of Christ; let the Pattern be recommended from what Quarter it will. For tho' it be the Glory of the *English* Nation, to be just and faithful in all her Correspondencies; and to be candid towards Men of all Countries and Professions; yet does she not think her self obliged, notwithstanding all other Engagements (which shall ever be inviolably maintain'd by her) to contract a Friendship in any thing, which shall the least in her Opinion dishonour the Religion of our Saviour, which yet is very highly dishonour'd in her Opinion, by those unchristian Restraints, which some would lay upon its Ministers; and those gross Indignities that are offer'd to the Christian Priesthood. When it is said,

said, in her Opinion, I mean that it is the Sense of our Laws : for the Laws do best declare the Sense of any Nation. It is this Consideration, worthy Sir, that has encouraged me to give you the Trouble of these brief Collections from our Laws and Historians, and the Opinions of learned Men, in order to desire the Favour of your Judgment, whether they will not furnish out some Hints, towards a Defence of the *English* Clergy, in their just Endeavours to preserve and cultivate the ancient *English* Loyalty : For if I do not mistake, it will plainly appear from these Abstracts (more valuable for their Weight than Number, which however might have been greatly multiply'd) that the Clergy are no more excluded from an Interest and Concern for the common Welfare of their Country, than the rest of their Fellow-Subjects; who are not refused, when any Danger is apprehended, to give their best Advice and Assistance to prevent it : and surely a Man's being a Clergy-man does not for that Reason unqualify him to wish well to the Publick; nor to speak and persuade Men to those things, which will make for the common Safety and Peace : Nor can the Peace and Safety of a Kingdom be better promoted, than by possessing the Minds of Men with just Notions and Principles of sincere Obedience, and

true Loyalty. It cannot therefore justly be charged as a real Fault upon the Clergy, to perform that which is their Duty; for which they have a spiritual and divine Authority, as Messengers of the Gospel of Peace, and Ministers of Reconciliation, not only of Mankind to God, but of Men amongst themselves, by a true Christian Charity; and for which also they have a *Temporal Encouragement*, as Ministers of the Church of *England*; the Discipline whereof being agreeable to the divine Law, which the Law of *England* gladly and wisely owns to be one of its principal Grounds, as I have shewn; and being taken under the Protection of the sovereign Power of our Kings, to whom is ascribed the Supremacy in all Cases both Civil and Ecclesiastical; and from whom all our Laws derive both their Origin and Force; it is hence become a Part of the common Law of *England*. Not that the Church is to be imagin'd to have hereby lost any of those spiritual Powers, which it received in its primitive and original Institution by Christ, antecedent to any Favour from temporal Princes; and which will ever be inseparable from it.

But our Kings of *England*, like truly wise and godly Princes, have in their Christian Prudence shewn such a Regard to the Discipline of the Church, as to an-

nex and incorporate it into the State; thereby, as it were, to sanctifie the whole Mass of the common Law of the Realm; and so render it more fit to govern a People, whom they look'd upon not only as their Subjects, but as Subjects to them under Christ. And as this is the great Excellency of the common Law of *England*; and discovers that our Ecclesiastic and Civil Interests are not placed at that Distance and Opposition to each other, which some Men suggest, and labour to prove: So from these Premisses it may justly be inferr'd, that there ought not to be so great a Distinction and Variance between the Ministers and Officers of these two essential Parts of our Constitution; but that both, I mean the Civil Ministers, and Ecclesiastic, should be more nearly ally'd in their Affections and Cooperations; each contributing not only to the Support and Subsistence of that Part, to which more particularly he does belong; but indeed to the Strength and Beauty of the Whole. While the State shall in this manner protect the Church, and the Church shall teach Obedience to the State; while they are thus united, and strengthened in their Interests, and mutual Support of each other, it will not be possible for them to be disturb'd and weaken'd by the Violence of any external Force.

Sir, from what has hitherto been discoursed, I dare almost promise my self, you will in your Judgment not blame the Clergy for their Curiosity in searching into the Laws and Constitution of their Country, the better to enable them to advise and direct their several Flocks in the just Measures of a quiet and peaceable Behaviour, and dutiful Submission to Authority; so as neither to injure common Liberty, nor infringe the Royal Prerogative. So far are we from being faulty, while we declare in this manner what is the Subjects Duty; as that the doing it is not only authorized, but commanded at several Times of the Year, both in * our Rubricks, and † Articles, and likewise in our || Canons. And the Homilies afford us a noble Treasury of Instructions, both to create in us a just and awful Reverence of the Regal Authority; and also to compose us to such a quiet and peaceable Temper and Disposition of Mind, as to fit us to be faithful and good Subjects, by our active and chearful Obedience to pious and religious Princes; and by passive Submission to the worst; with an equal and proportionable Detestation and Abhorrence of every first Ten-

* See the Offices for the 5th of November, 30th of January, 29th of May, and 8th of March.

† Artic. 37. Of the Civil Magistrate.

|| See Constitut. and Canons made An. 1603. cap. 1, 2.
dency

dency and Motion towards † *Wilful Rebellion* and *Disobedience*. I doubt not, Sir, but that you will wish with the same Zeal and Earnestness that I do, that these Advices and Instructions, had according to their just Weight devoutly and clearly been apprehended and received; and with equal Vigour and Sincerity recommended and press'd, by all my Reverend Brethren of the sacred Order. But so it comes to pass, that amidst such a Variety of Capacities and Inclinations in Men (a thing hardly to be avoided) such different Notions and Opinions are sometimes introduced and asserted, as are injurious and even scandalous to Religion in general, and dangerous in particular to the Peace and Quiet of the Church, as well as of the Realm. And these wrong and pernicious Notions and Assertions, have sometimes their Original, and the first Seeds of their Corruption, from a Root of *Maliciousness*. Sometimes they are the weak and perishing Fruits of *Audaciousness* and *Ignorance*. Of the former kind, such who may be said to sin of *malicious Wickedness*, with respect to their Declarations about Government, are those who teach that it is lawful to rebel, and are always entertaining their Disciples with Disobedience, and the Gloriousness

† See the Homily upon this Subject, in six Parts.

of resisting the higher Powers. In order to which the Authority of the Scriptures is to be render'd of no Force. And *St. Peter*, and *St. Paul*, tho' they declare for Obedience in the plainest Words, must either be thought to speak in the rebellious Sense, of these most wicked Prevaricators; or to be inconsistent with themselves. But these Men being Apostates not only from their own Order, but in some measure from Christianity; and being already condemn'd by the Suffrage of the two great Apostles they so highly injure; by that of the Primitive Church, and of that purest and most apostolic Part of the Church universal, to which they pretend to belong; And also by those Vows and Subscriptions made to it by themselves, which with great Baseness and Sacrilege they have falsified; they cannot farther deserve to be regarded by us, than with Abhorrence of the Principles they profess. And certainly the Wickedness of these Prevaricators, ought to have no Influence upon the general Character of the Clergy; since by their Apostacy they seem justly to have forfeited the Honour of having any Lot with their Brethren of the *English* Priesthood.

But there are others indeed, who may well deserve our Concern for them; such I mean, who either out of Ignorance or Inad-

Inadvertency, wade so far out of their Depth in Politicks, as sometimes to forget their Divinity. Thus I have known some Men, otherwife of no contemptible Abilities, talk with great Freedom and Assurance of the Nature of our *English* Constitution; and afterwards print their Discourses upon very slight Invitation; who by their want of Learning in our ancient Histories and Records, have been no way sufficient to enter upon such Speculations, and have thereby exposed themselves to the severe Censure of Men meddling out of their Sphere, and guilty of many not light Inconsistencies and Absurdities; who meaning nothing less (as in greatest Charity one would hope) than the doing any Injury to Monarchy; have nevertheless so suffer'd themselves to be imposed upon, by some popular Schemes in vogue of late, as to make and declare such Concessions in Derogation to sovereign Power, as are not to be warranted by the Constitution of the *English* Government in any Age; and such, as should they be admitted, might prove very dangerous to the *English* Monarchy. And this Error in Politicks is generally accompanied by one of no less evil Consequence in Divinity, viz. The affirming that God Almighty has not given the Preference to any one Form of Government more than another. Where-
as

as nothing can appear to me more false either in Divinity or Reason, or indeed in Fact. And to evince the contrary of this at least unwary Assertion, it were sufficient only to observe the Pattern of heavenly things, and to contemplate the sovereign Excellency and Perfection of Government, originally and eternally glorious in the Monarch of all the World; and thence justly to infer that Government to be the best and most perfect, which comes nearest in Resemblance to that which is infinitely and divinely perfect. And in truth, Almighty God seems to intimate thus much himself, when speaking of Kings he thus declares, * *I have said ye are Gods.* And for Divinity, whether Natural or Reveald, it doubtless declares for Regal Government. If Antiquity and Universality are of any Force and Authority, as I believe they have the greatest Weight with wise and learned Men; then let it be consider'd what Form of Government has most prevail'd; whether natural Religion, and the Dictates of improved Reason have had any Sway and Dominion over the Minds of Men. Let Historians and Philosophers be consulted, what was

* *Psal. 82. v. 6. which compare with Exod. ch. 22. v. 28. Thou shalt not revile the Gods, nor curse the Ruler of the People. John 10. v. 34.*

the first and best kind of Government.
 †† *Salust* speaking of Kings, tho' under a
 most potent Common-wealth, made no
 Difficulty to say, that the first Govern-
 ment upon Earth was that of Kings. And
 † *Justin* asserts the same thing in Words
 not very different, || *Cicero* saith, That all
 the ancient Nations were subject to Kings:
 And more than that, * *Aristotle* affirms,
 that Regal Dominion was the First and
 most Divine. Here we have Antiquity for
 the Excellency of Kingly Government;
 and if we compare the Number of Com-
 mon-wealths with the numberless Monar-
 chies upon Earth, that have flourish'd al-
 most in every Age and Country, it will
 amount almost to an Universality of Con-
 sent in Favour of Monarchical Govern-
 ment. And it is peculiarly remarkable,
 what is deliver'd by ‡ *Cicero* that greatest
 Ora-

†† Igitur initio Reges (nam in terris nomen imperii
 id primum fuit) *Cic. Bell. Catalin. cap. 2.*

† Principio rerum, gentium, nationumque impe-
 rium pebes Reges erat. *Lib. 1. cap. 1.*

|| Omnes antiquæ gentes regibus quondam parue-
 runt. *Cic. 3. de legib. cap. 2.*

Primum, maximèque divinum, Regnum.

* Πολιτείας δ' ἔστιν εἰς δύο τετα, τὴν δ' βασιλείαν καὶ τὴν
 βασιλείαν. *Arist. Ethic. lib. 8. cap. 12.*

‡ Nihil porro tam aptum est ad jus, conditionem-
 que naturæ, quod cum dico, legem a me dici, nihil-
 que aliud intelligi volo, quam imperium, sine quo nec
 domus ulla, nec civitas, nec gens, nec hominum uni-
 versum

Orator, and Philosopher, and Divine, amongst those who were celebrated for the Profession of Natural Religion, concerning the divine Original and sacred Authority of Regal Government. I wish no worse Doctrine were taught in relation to that Subject, by some of our Christian Divines.

Certainly they have no Countenance or Encouragement from reveal'd Religion, to speak Evil, or in Diminution of the supreme Dignity and Preeminence of Regal Power. Let them advise with those sacred Oracles of the Old and New Testament, that ought to be the Standard of their Faith and Doctrine; and let them acquaint us, if they can there find any other Form of Government stand in Competition with Monarchy for the Divine Favour. Will it not, I beseech them, be a sacrilegious Attempt to draw any Authority from thence in Diminution of this Form? I am sure it is surprizing to find

versum genus stare, nec rerum natura omnis, nec ipse mundus potest: nam & hic Deo parer, & huic obediunt maria, terræque & hominum vitæ jussis supremæ legis obtemperant. Atque ut ad ceteriora veniam, & notiora nobis: omnes antiquæ gentes regibus quondam paruerunt. Quod gentes imperii primum, &c. Cicero de legibus lib. 3. cap. 1. 2.

Semper regium nomen in hac civitate sanctum fuit: sociorum vero regum & amicorum, sanctissimum.

Οὐκ ἀγαθὸν πολυκοινοῖν εἰς κοίραν ἔσω,
Εἰς βασιλίδε. Homer. Iliad. B. lin. 204.

any

any one initiated in the sacred Myſteries of Chriſtianity, much more who is exalted to the Prieſthood, to be unacquainted with the great Honour and Reverence paid in the Scriptures to Kings, and the Name of Kingly Government; ſince our Saviour himſelf diſowns not the Title of *King*, and has enobled Regal Government ſo far as to give it the Preference above every other Form, in that he has adopted it for the Government of his Church, which he ſtyles a *Spiritual Kingdom*. And we as Chriſtians, in the Prayer which we daily offer up, from our Saviour's Dictates and Appointment, acknowledge his Kingdom, and pray for the Enlargement of it. So that whenever a Clergy-man places any other Form of Government upon a Level with the Regal, and ſeems to be ignorant of that Preeminence which Monarchy juſtly claims above all others, the Answer of our Saviour to *Nicodemus*, will be very proper for him: * *Art thou a Maſter of Iſrael, and knoweſt not theſe things?* He knows little of the Conſtitution of our *Iſrael*, either as a good Chriſtian, or good Subject. It were to be wiſh'd, that the Encomiums which are made upon other Forms of Government, were left to thoſe alone who are obliged to live under them;

* John chap. 8. v. 10.

a true *Engliffman* will be fure to praife none fo much as Monarchy.

Such therefore of my Brethren as have not Learning or Depth of Judgment, to fpeak to the Particulars of our Conftitution, and the Forms and Original of Government, would be well advifed to leave the Difquifition of fuch Matters to the more knowing; and thus they would be guilty of no Affertions, that are unbecoming a good Subject. And they fhould content themfelves to teach the general Duty of Submiffion and Reverence to Kingly Power, from the Holy Scriptures, as they are expounded in our Church's Homilies; and thus would nothing be deliver'd by them unworthy the Character of a good Divine.

To conclude, Sir: It will I hope appear from what has been here obferv'd, that neither are the Clergy excluded from giving their Advice in Civil Matters, and declaring the true and juft Meafures of Chriftian Subjection and Obedience, for the peaceful Demeanour of their People, in the truly Chriftian Doctrine of Loyalty, according to that Skill and Learning they have attain'd unto in their own Profeflion, and in the Study of our common Law, with which it does not at all mifbecome them to be acquainted, for fo good Purpofes, but rather fhould they endeavour to be

be well furnished with a competent Knowledge in it : Nor yet are the Clergy without such a Degree of Knowledge, encouraged to venture any farther, than to instruct Men in general Terms, in the Duty of Christian Obedience, and Submission to their lawful Governours. And this being observed by them in the due Regulation of their Demeanour, there must of Necessity great Advantage result from it to the Publick. For by the discreet Forbearance of the one, the People will be secured in their Obedience against the Delusions of false Politicks; and by the Learning of the other, they will be instructed in true Loyalty. These are Qualities, by all Men to be wish'd for in the Clergy, and by none to be envied in them. They are the same, that in this brief Collection of not unsuitable Materials, have been recommended and justified, and the farther daily Improvement of them for the Glory of God, and the Good of the Realm, is the present Subject of those Prayers, in which, Sir, I doubt not of your Concurrence, who bear so much Respect and good Will to our Order.

Sir, I earnestly beg your favourable Acceptance of these Endeavours; tho' not for their Accuracy, yet for their Loyalty. I could be glad, were it not too great a Presumption to desire it, that by the gentle
Cor-

Correction of your Hand, this at least well intended Performance, might be made useful to the Publick; or at least if it cou'd approve it self to your Judgment; I shou'd then think it secure against all other Fears.

I am, Sir, &c.

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